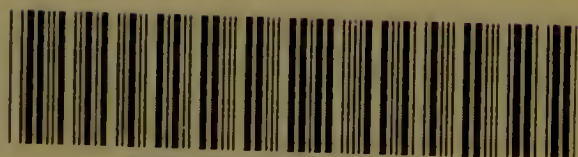




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VITAL REGISTRATION.



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FOR

WILLIAM GREEN AND SONS

VITAL REGISTRATION

A Manual of the Law and Practice

CONCERNING

THE REGISTRATION OF BIRTHS, DEATHS,
AND MARRIAGES

REGISTRATION ACTS FOR SCOTLAND

WITH RELATIVE NOTES ON VACCINATION AND THE CENSUS,
FORMS, AND TABLES OF FEES, &c.

BY

G. T. BISSET-SMITH, F.S.S.

H.M. REGISTRATION EXAMINER
MEMBER OF THE SOCIOLOGICAL SOCIETY

NEW EDITION—REVISED AND CONSIDERABLY ENLARGED

CONTAINING A CHAPTER ON VITAL STATISTICS

EDINBURGH

WILLIAM GREEN & SONS

Law Publishers

1907



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PREFACE TO THE NEW EDITION.

THE chief aim of this book is to aid in maintaining the high standard of our National Records.

“Vital Registration” is the phrase devised to cover everything connected with the recording of Births, Marriages, and Deaths.

The arrangement of the contents is in an order found useful in practice : “*permettant de trouver immédiatement le renseignement dont on a besoin.*” And, previous to the publication of this book, much of the information it contains was (as a legal reviewer observed), curiously inaccessible, having to be obtained from various sources.

There is, it has clearly been shown, room for a work containing in one cover the gist, at least, of the whole Law and Practice of Registration. Twenty years’ experience in administering the Acts, with legal and literary preparation, should qualify for such an undertaking.

Considerable changes have been made since the introduction of Civil Registration. The VACCINATION ACT (1863), and the MARRIAGE NOTICE (SCOTLAND) ACT, 1878, for examples, have increased the duties of the

Registration Department, as have also many minor additions, and the great decennial task of taking the CENSUS.

The attitude of the public mind in Scotland towards its Departments is one of confidence; the tendency, therefore (as The Registrar-General pointed out at a Civil Service meeting several years ago), is to extend the sphere of the service; and the skilled and reliable machinery of the Registration Department is now always intrusted with the preparation of the Census—that complete Register of the whole Population—of which a short sketch finds a place appropriately in this volume.

The work is meant primarily for REGISTRARS. But the portion of the book explaining the PRELIMINARIES TO MARRIAGE has proved valuable to CLERGYMEN of all denominations; while DEATH REGISTRATION and the Chapter on VITAL STATISTICS interest especially DOCTORS and MEDICAL OFFICERS OF HEALTH; the election of Registrars dealt with under “REGISTRATION AUTHORITIES,” and kindred points, are within the province of PARISH and TOWN COUNCILS: Sheriffs and Sheriff-Clerks have found the volume useful; and the whole subject—as a very practical branch of the LAW OF EVIDENCE—comes within the scope of the LEGAL PROFESSION.

It is indeed a subject which should interest everyone. MARRIAGE, the apex of Life, is not reached by all; but everyone who lives a life must at least creep along the pyramid, though, it may be, sadly near the base, from

BIRTH to DEATH. (And the three leading events of Life have their Registration regulated by the three Acts of Parliament upon which this book is based.)

The statutes as revised are printed at the end ; and, throughout the treatise, where a reference is given to a Section without mentioning the Act, it is the first and principal Statute that is referred to, namely, the REGISTRATION (SCOTLAND) ACT, 1854, 17 & 18 Vict. c. 80.

A glance at the Table of Contents will show the general plan of the book, and that nothing has been omitted necessary to render the work in every way comprehensive and complete, and worthy of the continued approbation of The Department, of Colleagues, and of others connected with and interested in the important work of Vital Registration.

To many Registrars probably the most interesting portion is Chapter VI., dealing chiefly with sundry advanced questions, under the general heading of "Special Points." At the end of that Chapter, there have been added a considerable number of useful Forms. Chapter VII., relating to the very interesting subject of "VITAL STATISTICS," is a fresh portion, while much new matter has been added throughout regarding various points of practice and the like, in the desire to render this Edition, as far as possible, definitive : and it is hoped that the persistent effort to improve the Manual will secure for this Edition a continuation of that very gratifying success which welcomed the work.

The disposal in so short a period of the previous issue

is a convincing proof that the book is very generally appreciated—indeed, expressions of approbation have been received from all one's Colleagues and many other authoritative quarters. Of these, there may be quoted a fairly comprehensive testimonial from an authority of very long experience, who writes: "You have covered every corner of the whole field of Registration." And a distinguished Advocate was kind enough to express the following opinion: "I think the book must be an absolute essential to every intelligent Registrar, apart altogether from the great service which it will be to Lawyers."

Side-light on the subject has been sought in the systems operating in England, Ireland, and in France; the fact that the law of Scotland is allied to that of France, rendering a study of the French system of value in this connection. But in a practical Handbook for ready reference there is little space for comparison. The purpose of the writer is mainly to give guidance from the prolonged experience of assisting in the administration of the Registration Acts he has enjoyed under his esteemed Chief, SIR STAIR AGNEW, THE REGISTRAR-GENERAL FOR SCOTLAND, to whom this New Edition is most respectfully dedicated.

The MARRIAGE WITH FOREIGNERS ACT, 1906, 6 Edw. VII. c. 40, has been added to the APPENDIX, and some NOTES concerning that STATUTE.

G. T. B.-S.

55 CARLTON PLACE,
ABERDEEN, W.

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VITAL REGISTRATION.

INTRODUCTORY CHAPTER.

MOST important of all public non-judicial records, Civil Registers of Births, Deaths, and Marriages were established, and made compulsory, by statute, from 1st January, 1855.

The imperfection of the old Parochial Registers rendered legislation imperative. To understand an Act, it is always necessary to know the reasons which called for it, and the defect it is to remedy : accordingly, it is advisable to indicate here, however briefly, the circumstances in which the enforcement of universal Registration became the subject of legislative enactment.

“The law preserves authentic evidence of facts to which legal consequences are attached, by keeping a registry of such facts ; as of births, deaths, and marriages, of wills and contracts, and of judicial proceedings. In doing these things, it has never been alleged that Government oversteps the proper limits of its functions” (Political Economy, Bk. V., Chap. I., Section 2).

That Vital Registration is well within the sphere of the State is thus clearly laid down by John Stuart Mill. Scotland has long been proud of her public record of legal and judicial writs ; but in the matter of Vital Registration there was no legislation until it was obvious that the object could be attained only by compulsory regulation embodied in an Act of Parliament.

The original Registration Act, in its preamble, declares that "it is expedient that a complete and uniform System of Registration of Births, Deaths, and Marriages should be established and maintained in *Scotland*." Its title, "An Act to provide for the *better* Registration of Births, &c.," implied that some system existed previously. But, before the passing of that Act, in 1854, there was no enactment of the Legislature regulating Registration; and such records as were kept, under the direction of the Church of Scotland, were in character ecclesiastical. They are far from being complete or carefully kept. A "REGISTER OF NEGLECTED ENTRIES" exists in the General Registry Office, wherein any Birth, &c., which took place between 31st December 1800 and 1st January 1855, may be registered on production to the Registrar-General of a Warrant by the Sheriff of the County in which the event occurred (sec. 2 of 1860 Act). That Register has been taken advantage of chiefly for recording Births, which escaped Registration in the old Registers before, or in, the year of grace (1855), allowed for the purpose of registering any Births, &c., which had taken place before 1st January, 1855 (sec. 1 of 1854 Act). There is given, by section 3 of the 1860 Act, similar authority for correcting, on Warrant from the Sheriff of Mid-Lothian (being "the Sheriff of the County wherein the said Register is kept"), any error in an entry of Birth, Death, or Marriage in the Registers kept prior to 1st January, 1855—records generally known as the Old Parochial Registers.

OLD PAROCHIAL REGISTERS.

THE ECCLESIASTICAL SYSTEM.

INTRODUCED by a provisional council of the clergy held at Edinburgh in 1551, the earliest Parish Registers were con-

fined to births and marriages. The Death Register is regarded by many to-day—especially by those interested in Public Health—as the most valuable record. But it was not until 1574 that it was proposed to keep any record of deaths. This mortality register, however, was exceedingly meagre; and the books preserved contain generally only the bare names of persons who were buried in the parish church-yard, the records being really mainly accounts of sexton's fees, and of payments received for the use of the church "mort-cloth." Indeed, the heading is often merely "mort-cloth dues;" and in many districts no record whatever was kept of either deaths or burials.

Most parishes had no record of Marriages, save so far as the proclamation of banns is evidence of a marriage; for generally no mention is made of the actual celebration in the Old Parochial Registers; and, of course, there must have been some cases in which the parties changed their minds, or died before the date fixed for the event, there being by consequence no marriage. The banns might have been objected to. In a case recorded in St. Madoes Old Parochial Register this was done once on the grounds that "the man was an idiot, and nocht of wit and judgment to govern himself, and the woman ane proud, young, and bangster hizzie, wha had goglit him in his simplicities." Having had occasion to look into some hundreds of these three or four thousand old volumes, I may remark that, while a few are fairly well kept, most have many blanks and irregularities. The form of entry differs greatly, the majority being very brief, others somewhat lengthy. Thus in the Edinburgh Register appears this record of the birth of Dr. Johnson's biographer:—

"Saturday, 18th October, 1740. To Mr. Alexander Boswell, younger of Auchinleck, advocate, and Mrs. Euphame Erskine, his spouse, a son named James. Witnesses,

Walter Macfarlane of that Ilk, Allan Whitefoord, Receiver-General for North Britain, and Dr. John Pringle, physician in Edinburgh. Born the same day in the morning, and baptized by the Rev. Mr. Robert Wallace, one of the Ministers of the City."

Baptisms only, and not births, are the rule in the Old Registers.

"29th April, 1667. Mr. Alexander Arbuthnott, parson of Arbuthnott, had a son baptized called John."

That, for example, is the sole entry of the birth of Dr. Arbuthnot, celebrated physician and brilliant wit of the Court of Queen Anne. Easy-going man, the doctor dropped a "t" from the spelling in his birth entry. And had the baptism been by a dissenting minister, there would have been no entry at all; for the Registers were kept in connection with the Church of Scotland, being, therefore, exclusive generally of all dissenters.

NEW REGISTERS.

THE CIVIL SYSTEM.

LACK of any real and regular superintendence was one of the reasons why the old system, after a trial of three centuries, was pronounced so defective that the only effectual remedy was compulsory Civil Registration. Although not actually *compulsory* until 1874, England had enjoyed such a system from 1st July, 1837; and that system was adopted, with some amendments, for Scotland.

A short sketch of the history of Registration in Scotland is given in Chapter VII.

Britain followed France. For by the Decree of September

20–25, 1792, the Legislative Assembly finally established in France, or, to speak more exactly, extended to all Frenchmen, what we call civil marriage, that is to say, marriage before the public officer of the municipality without the intervention of a priest. All transactions affecting Civil Status were at the same time secularised; the written Registers of Births, Deaths, and Marriages were taken from the Clergy and entrusted to Municipal officials (THE CAMBRIDGE HISTORY, Vol. VIII., *French Law in the Age of the Revolution*, tit. “Civil Marriage”).

France had, it appears, some sort of Vital Registration from about the year 1308; Spain from 1497, and England from 1538 (30 Hen. VIII.), after dissolution of Monasteries, and more minute directions were given in 1597; but in England, as in Scotland, such instructions were not universally followed.

Scotland, indeed, was the first to have universal registration enforced, her whole system being compulsory from 1855, while compulsory registration was introduced into England only by the Act of 1874 (37 & 38 Vict. c. 88); the recording of Births being only voluntary under the original English Act of 1836 (6 & 7 Will. IV. c. 86).

By the original Registration Act for Scotland, 17 & 18 Vict. c. 80, our ancient parochial registers were abolished after a year of grace: and, finally, they are all centralised in the General Registry Office, Edinburgh, those relating to the years 1820–1854 being forwarded in 1885 (sec. 6, 1860 Act).

From 1st January, 1855, the Local Registrars appointed under the Act have kept a set of registers in duplicate. The Registers are examined annually by the District Examiner, and one set forwarded to Edinburgh, the other set remaining with the Registrar, who carefully preserves all the Registers in his custody in fire-proof safes.

Under the old system, there was no check upon the Session Clerk, who entered the facts as he thought fit ; and sometimes received the fee and failed to enter anything. Now, from 1855, a uniform system was made compulsory ; and the Informant himself (as well as the Registrar) signs the record, after being satisfied as to its accuracy.

On the evils resulting from the old system and the benefits flowing from the new, it is obvious that much might be said. But the chief purpose of this book is to aid in carrying out the present system of registering events, which here will be taken up in their natural order in life, beginning with Births.

Following the various details regarding the registration of BIRTHS, legitimate and illegitimate, is a brief Note on VACCINATION. Then after a necessary sketch of Marriage Preliminaries—MARRIAGES, regular and irregular : DEATHS, in a house, not in a house—by drowning, and at sea : REGISTRATION AUTHORITIES, and the like ; The Registrar-General's Reports of Vital Statistics : with a Note on the Population CENSUS—greatest of all statistical operations, stocktaking of the whole national life, and most noteworthy of special undertakings connected with our very efficient and complete civil system of Vital Registration.

CHAPTER I.

BIRTHS.

PRELIMINARY TO REGISTRATION.

THE Registrar is “authorized and required to inform himself carefully of every Birth and Death which shall happen within his Parish or District” (sec. 26 of 1854 Act).

Before, or in course of, taking down, on the printed forms supplied, the Answers to “Questions to be answered by Informant,” being the particulars required to be registered, the Registrar ascertains :—

- (1.) That the birth occurred within the boundaries of his district.
- (2.) That the time allowed has not been exceeded ; and
- (3.) That the Informant is legally qualified, and possesses full knowledge of the details to be recorded.

Careful attention to this preliminary prevents the possibility of error ; and helps materially to maintain the proper standard of the Registers as reliable and accurate legal records.

Place.—In all the Registers, endeavour should be made to specify clearly the exact place of Birth, Death, or Marriage, as indicated in the Examples prefixed to the Register-Book.

Boundaries.—One of a Registrar’s first duties is to familiarise himself with the boundaries of his district ; and in a case where there is any dubiety, application should be made to the Sheriff, if the point cannot otherwise be determined.

I.—LEGITIMATE BIRTHS.

Legitimate children may here be defined as children born in lawful wedlock.

INFORMANTS.

Within twenty-one days of the birth and under a penalty not exceeding 20s., a qualified Informant must attend personally and give information to the Registrar of the particulars of the birth, and sign the Register.

The qualified Informants are :—

1. The parents.
2. Person in charge of the child.
3. "Occupier" of the house where born.
4. Nurse present at the birth. And in the event of failure of the foregoing,
5. "Any other person having knowledge of the particulars" (sec. 27 of 1854 Act).

In the interpretation of the Registration Act (sec. 76), the "occupier" includes "guardian, master, governor, keeper, steward, house-surgeon, or superintendent, of every gaol, prison, or house of correction, workhouse, hospital, lunatic asylum, or public charitable institution."

The parents—being the primary Informants—are to be preferred, where their attendance is possible.

Most legitimate births are registered upon the information of the father, who is the best authority as to the name of child, and generally remembers the mother's maiden surname, and the date and place of their marriage: while these particulars are not so likely to be in the ready knowledge of the secondary Informants, who are to be taken, of course, in

order named in the Act, the best qualified person available being applied to for the purpose of prompt Registration.

To ensure accuracy, it is well that Extract of Marriage be brought. And the Informant, if not a parent, should bring written particulars.

It is sometimes found that informants other than the parents (from whom, *verbally*, they have got perfectly correct information) jumble up the facts in their minds before reaching the Registrar, and therefore make annoying slips in names and dates. Hence, it is obviously most desirable to endeavour to secure the attendance of parents, and thus obtain accurate information at first hand.

As a rule, no one under fourteen should be taken as Informant. (Other nearest relative, or nurse, may be asked to register.)

COMPULSORY ATTENDANCE.

By using the best means of obtaining information as to events occurring in their district and by alert attention, Registrars secure generally the registration of Births within the proper time without any trouble (Pp. 8 and 9 of Regulations).

But if the Registrar has twice duly requested attendance, and, notwithstanding, the persons qualified fail to attend to register the event, such failure may be reported to the Sheriff, who shall issue his Warrant compelling attendance (sec. 45). A statement of the palliating circumstances, if any, should also be made to the Procurator-Fiscal at the same time, by the Registrar; and it is not the general practice to report cases of delay in which the registration, although after twenty-one days, has been secured within three months, unless there are peculiar circumstances of aggravation, deliberate refusal, or attempt to evade, and if the Registrar-General should so direct. It is to be borne

in mind, however, that Births should be registered within the twenty-one days.

All known cases of *false information* (secs. 60, 62) are to be reported to the Procurator-Fiscal, as well as every case of failure on the part of Informants to comply with the requirements of Registration (sec. 65).—*Official Regulations for Registrars*, pp. 32, 33.

TIME OF BIRTH; AND TWINS.

If there is one thing more important than another in an Entry of Birth, it is the time. The day of the month has always to be written in words, and the hour and minute of birth stated exactly.

TWINS.

In the case of Twins especially the exact time of birth is important. The elder twin is registered first, and the second as the immediately next Entry. The hour of birth in these instances involves particular attention, the difference generally being merely a matter of minutes, one twin being born at, say, 1h. 20m. P.M., and the other, perhaps, ten or twenty minutes later. Therefore, the precise minute of birth requires to be recorded.

The word "Twin" is written clearly in the *outer* margin of each entry; and, except in the particulars as to precise time of birth, and Christian names (and sex), the two Entries should be identical.

Triplets also should be entered consecutively. As to Petition for Royal Bounty, see Chapter VI. under "Forms."

REMARKS ON REGISTRATION.

In connection with the point of precise time, it is necessary to observe that whenever 12 o'clock is reached, we begin

again ; and 20 minutes past 12 in the middle of the day should not be entered in the Register as 12h. 20m. P.M., but as 0h. 20m. P.M. (Mid-day is entered "12h. 0m. noon," and midnight as "12h. 0m. P.M.") This is shown in the first example prefixed to the Birth Register. And here it may be pointed out that the golden rule for good Registration is rigid adherence to the Examples : these are calculated to afford guidance in all ordinary cases, not only as to particulars required but also subordinate matters, such as exact sequence and style. Thus, in **Column (1)**, the Christian name should be entered first, and then the Surname, which latter should be written in a larger hand (as indicated by the use of capital letters in the Examples). The use of larger writing for the SURNAME differentiates it at once from the Christian name or names, and facilitates alike the consulting and the indexing of the Registers.

Column (3) should always be looked at in connection with Column (1). This ensures the entering of the correct sex letter, "M." or "F.," which is a point of especial importance in those instances where the Christian name does not clearly indicate whether the child is "Male" or "Female." Among such cases are those where a surname is used as a Christian name ; for example, Graham Robertson.

In **Column (2)**, in addition to the usual details of place, if the Registration District is composed of more than one Parish, there must also be stated the name of the Parish within which the event occurred.

A very common error in Column (2), which Registrars guard against generally by cross-examination, is for the Informant to state at first the day of birth wrong by a full week—say, Monday, "a fortnight past," when the birth occurred really a week earlier or later. If the Informant is hazy in this way, the Registrar may find it necessary to send him

back to the mother to make sure of the actual day of the event.

If a mistake of the kind indicated above has occurred, and the entry has been duly signed by Informant and Registrar, it can be corrected only with the authority of the Sheriff under the provisions of section 63: or by the Examiner at his annual visit, on the authority of a corrected paper of "Questions to be answered by the Informant," which should be duly signed. Errors discovered *before* signing are to be corrected under section 64 by the Registrar and numbered *consecutively* in the manner set forth in the Regulations (page 25).

Column (4) of the Birth Entry requires the full name of the father, and his occupation, which should be stated distinctly, as Joiner (master) or (journeyman), or (apprentice) as the case may be.

If the mother has been married more than once, the previous married surname (or surnames) should be stated thus :—

Elizabeth Douglas, previously Brown, M. S. Hamilton. If the mother had been three times married, and the first husband named Hay, that fact would be indicated by inserting after "Brown" the words "formerly Hay," her surname thus being, in order of date, Hamilton, Hay, Brown, Douglas.

And the year, month, day, and place of (the last) marriage are entered, in order named, to complete this important column. Extract of marriage should, if possible, be produced.

In the Registers of Births (and of Deaths and Marriages), where either of the parents, or both, happen to be dead, the word "deceased" must always be entered after his or her name, as—

John Robertson, Confectioner (master),
(Deceased 28th November, 1906.)

In **Column (5)**, a liberal interpretation is given to the word “present,” and the fact of being about the house at the time warrants a father, for example, being described as “present,” which word appears after his signature and qualification. Where that word does not appear, it is *understood* that the Informant was *not* present. (These words “not present,” however, must not be entered.) When the residence of the Informant is different from that in which the event occurred, such residence should be entered after the signature and qualification, as shown in Examples Nos. 5 and 7 prefixed to the “Vaccination” Birth Register.

CORRECTIONS.

Before signing Column (6), the Registrar reads over all the entry carefully, and, if need be, corrects it; for no correction can be made (without the interposition of the Sheriff or the District Examiner), after an entry has been completed by the signature of the Registrar.

If an error is discovered before an entry is so closed, the Registrar may correct it by drawing a line through the erroneous part, and writing, above or below it, the correction. All such corrections (sec. 64) must be numbered consecutively and initialled by the Registrar; and any number of words, *together in the same column*, must be counted as only one error. The numbering is separate in each book.

In Births (and Deaths), the Registrar should generally leave only signature in Column (5) for Informant to write, inserting qualification, &c., himself, and thus avoiding possibility of slips in spelling such as “feathar (presant).”

CORRECTING ERRORS UNDER SEC. 64.

- (a) If a word, or a letter, be omitted, it must be added

1	2	
Anne	r	one J. S.
thus —“ Catharine Armstrong,”	“ Hariet.”	two J. S.
^	^	

(b) If there be a letter too many, it must be struck out

thus :—“ Hend³ry.”

three
J. S.

(c) If a wrong letter has been written, it must be

a⁴
corrected thus :—“ Marg~~e~~ret.”

four
J. S.

(d) If more than one letter in a word, or if the whole word, be erroneous, a *single* line must be drawn through the word, *leaving it legible*, thus :—

“ And⁵rew,” “ Ele⁶venth.”
William Tenth

five
J. S.
six
J. S.

N.B.—Any alteration is to be made “ as near as may be to the correction ” (sec. 64). The letters “ J. S.,” annexed to the numbers in the margin, are intended to indicate the initials of the Registrar’s name and surname; and the numbering must be strictly consecutive; the correction being completed by the Registrar’s initials before the entry is signed (Regulations, p. 25).

For corrections requiring the authority of the Sheriff, see under “ Register of Corrected Entries,” and the various Forms, *infra*.

DELAYED REGISTRATION.

(a) WITHIN THREE MONTHS, ON REQUISITION
OF THE REGISTRAR.

IN the event of failure to give information within three weeks, the Registrar may either personally or by letter, require the

persons specified, or anyone else possessing the necessary knowledge, to attend and furnish the required particulars within three months of the birth (sec. 27), the penalty for failure not exceeding 40s.

It is required that the Registrar send two statutory intimations, if necessary, fixing a time for registration, before applying to the Sheriff to secure compulsory attendance (sec. 45).

If the parents have removed from the district of birth before registration, the Registrar is entitled to bring an Informant back to register the event ; *personal* attendance at the Registrar's office in district of birth being necessary always in Scotland. (The Nurse or the Doctor *may* be accepted as Informant.)

The authority of the Sheriff, in the shape of a Warrant for Registration, is not required except in cases where a period of three months from the date of the Birth has expired before registration.

(b) AFTER THREE MONTHS, WITH SHERIFF'S AUTHORITY.

It is illegal for a Registrar to record a birth more than three months after its occurrence, save by authority of the Sheriff.

The parent or guardian must make a declaration before the Sheriff, who may then authorise the Registrar to make an entry (sec. 31).

The Informant attends at the Office of the Registrar, and the Entry is made, and signed in the usual manner by the Informant and the Registrar.

By section 11 of the 1860 Act, every such late entry must also be signed, in the last Column (6), by the District Examiner of Registration, by whom the Sheriff's warrant is transmitted to the Registrar-General.

By section 31 of the 1854 Act, anyone knowingly registering or causing to be registered a birth after the expiration

of three months, otherwise than with authority of the Sheriff, is liable in a fine of £5.

For every Registration of Birth made after three months, unless the delay has been caused by his fault, the Registrar is entitled (sec. 31) to a fee of 2s. from the person requiring the event to be registered.

“Three Months.”—The terms of the latter portion of the 31st section rendering an entry of birth not admissible in evidence when “more than three months have intervened between the day of the birth and the day of the Registration” without the Sheriff’s authority may be held to indicate that the period may be reasonably taken to run from *the day following the birth*. The point has not been settled definitely and finally, and so is, perhaps, open to argument. But, acting in accordance with the above interpretation, which is authoritative, I have, when consulted on the question, said that a birth on 1st January could be registered validly on 1st April—the last day (according to the foregoing principle of computation) possible without Sheriff’s warrant.

The following is the note written upon the back of an Extract of an Entry of Birth, registered beyond three months, issued before the Examiner’s signature is adhibited in the Register.

“In terms of the 11th Section of the Act, 23 & 24 Vict. c. 85, this Entry which has been made with the written authority of the Sheriff, under the provisions of the 31st Section of the Act, 17 & 18 Vict. c. 80, requires to be signed by the District Examiner, and such signature will be adhibited duly at the forthcoming annual inspection.

“(Signed) A.B., Registrar.”

If a transcript has been sent to a district of domicile, intimation of the signing is made as follows:—

In Column (6) of the Entry of Birth of A.B., a transcript

of which was sent you on or about (*date*), insert at foot of Column “(Signed) John Liddell, Examiner,” such authentication having been now added to the Entry in my Register.

(Signed) A.B., *Registrar*.

II.—ILLEGITIMATE BIRTHS.

IN a Registration sense, illegitimate children may be defined as children lacking at birth the personal status which results, at once, from being born in lawful wedlock. The definition “born out of wedlock,” does not include, however, children born a certain time after the dissolution (by death or divorce) of their parents’ marriage, which issue may be legitimate. But with these (and some other) exceptions, illegitimate children are, generally, children born out of wedlock, and are often designated, somewhat euphemistically, “natural” children.

If in any case the Registrar is in doubt as to the legitimacy or illegitimacy of a child, or uncertain what is the proper form of entry, he should communicate the circumstances fully to the Registrar-General, stating precisely what is the point of difficulty on which he requires special instruction (Regulations, page 15, letters *b*, *c*).

The time limits for Registration, twenty-one days and three months are the same as for ordinary cases; as are also the secondary informants. But in the case of illegitimate children, the only primary informant is the mother.

PARENTAGE COLUMN.

Registrars are forbidden to enter the name of any person as the father of an illegitimate child, save at the joint request of the mother and the person acknowledging the paternity—who must attend at the Registration and sign the Register along with the mother (sec. 35).

When the paternity is acknowledged, the child is registered in the surname of the father; the entry then differs

from that of a legitimate child chiefly in the addition of the word "Illegitimate" in the first column, and the absence of Marriage in the fourth.

But sometimes the parents have married in the meantime, and the case becomes one of a Birth *before*, registered *after*, the Marriage of the parents. As, however, the form of entry is regulated by the date of the birth (not by the date of the Registration), the birth of the child should be registered, as indicated above, on the joint information of both parents, in the same manner as if they were unmarried at the time of registration, the fact of its legitimation later being noted afterwards, if the parents desire it, in the Register of Corrected Entries; thus putting on record the date of the legitimation, which is, of course, the date of the parents' marriage. If the Mother dies before the birth is registered, the word "(Deceased)" may be added after her name and designation; and some person acting as her representative should sign the Register, either alone, or, if the paternity is acknowledged, with the putative father.

When the Father does not attend at the Registration along with the Mother (or person representing her), the Entry is made under her surname only, with the word (Illegitimate) in the first Column, and, obviously, no marriage reference, nor name of father, entered in Column (4).

The reputed father cannot be accepted as the *sole* informant (*Vide* Regulations, page 14).

DECREES OF PATERNITY.

But if the paternity of a child is found (or fixed, where already acknowledged at registration) by a Decree of Court, the Clerk of Court must, within ten days, notify, in terms of Schedule (F), the import of the Decree to the Registrar of the district in which the Birth was registered. The Registrar thereupon enters the Schedule (F) in his Register of Corrected Entries, making a reference thereto in

the margin of the original Entry of Birth (sec. 35; and sec. 13 of 1860 Act). See Example No. 3, page 3, prefixed sheets in Register of Corrected Entries.

Paternity acknowledged at Registration.—When the father has attended with the mother and signed the Register at the recording of the Birth, the preamble to the insertion relative to a Schedule F. should be as follows:—

With reference to Entry No. in the Register Book of Births for the year 19 , the following Note is inserted on the authority of a Certificate in the form of Schedule (F).

“In an action,” &c. (as in Example No. 3, on page 3, prefixed to the Register of Corrected Entries).

Second Decree.—Sometimes another Decree, granted upon a different and subsequent date, for the same child is received later, in which case the second Decree is recorded, similarly to the foregoing, in the Register of Corrected Entries. But the additional reference on the margin of the Birth Entry is simply to the further page in the Register of Corrected Entries and the date of the fresh insertion; thus, for example, “and page 60, 11th January, 1905.”

Transcript of Decree.—The heading in the Register of Corrected Entries is as usual. And the simplest way to enter the Transcript of a Schedule (F), or of a correction on a Transcript Entry of Birth, is to transcribe into the Register of Corrected Entries the copy insertion (omitting the note at foot by transmitting Registrar), adding thereafter:—“The above relates to Entry No. in the Register Book of Births for this district for the year .”

The original Registration Act provides (sec. 35) that the Schedule (F) shall be sent to the “Registrar of the Parish in which the Father is or was last domiciled, or in which the Birth shall have been registered.” And in the early years of Registration much inconvenience arose to all parties

from Sheriff-Clerks adopting the first alternative in some cases, which gave trouble in forwarding the Schedule (F) to the district of Registration, as no entry can be made in another Registrar's books. From 1863, however, practitioners have generally stated in Summonses of Filiation and Aliment, the place and parish where the child was born; and Sheriff-Clerks transmit the Schedule (F) to the Registration District of Birth.

The gratis Extract given at the registration of the Birth should always be a portion of the process in paternity cases. That practice ensures that the facts as to time and place and the names shall appear correctly in the Schedule (F).

Some Sheriffs, indeed, have laid down the rule that the gratis Extract must be a part of the process. The universal adoption of that view would give satisfactory results. For when the Birth Extract of the child is thus used there is shut off the chance of discrepancies occurring between the Birth Entry and the Schedule (F). In Poor cases in Aberdeen, the Birth Extract must be produced and noted in the papers relating to all actions for paternity.

When the Schedule (F) contains errors or omissions, its imperfection causes trouble to all concerned, in their correction. Sometimes, indeed, when error has crept into the process, the Schedule cannot well be corrected. But if it cannot be corrected, and if the Registrar is satisfied that the Schedule refers to a certain entry, he may record it in the usual way, disregarding any discrepancy which cannot be corrected. And it is safest, generally, to leave out in the insertion in the Register of Corrected Entries any erroneous item in the Schedule. Thus, if the day of birth is put down as 27th instead of 21st June, the day might be left blank in the insertion.

RECORDING OF LEGITIMATION.

In cases where the paternity has been acknowledged at

registration or found by Decree, the procedure is simple when a child registered as illegitimate is legitimated by the subsequent marriage of its parents.

The Registrar, if so requested, upon production to him of an Extract of the Entry of Marriage, notes the legitimation in the Register of Corrected Entries (see Example No. 4, page 3, prefixed to that Register), inserting a reference thereto in the margin of the affected Birth Entry, as shown in the Example 7 prefixed to the Birth Register.

The Extract of Marriage is necessary, although that event is registered in the same district as the Birth; the Extract is the indispensable authority for noting and is transmitted to the Registrar-General by the Examiner after his annual inspection.

It is generally laid down in Scots Law that only these children can be legitimated who are begotten of a woman whom the father might *at that period* have married lawfully. Therefore the illegitimate child of a man possessing a wife at the time probably cannot be legitimated afterwards, even although the paternity is acknowledged at Registration.

Accordingly, it is quite clear that if either of the parents were married to another person at the time of the birth, the child may not receive the legal advantage of legitimation by their subsequent marriage, the principle not allowing legitimation in such a case. To do so, indeed, would be to stretch the privilege of legitimation so as partially to cover polygamy; and, in this view, adulterine bastards are precluded from legitimation in the full and proper legal sense. While that appears to be the correct legal opinion generally held, it may be mentioned that, a Registrar's duty in the matter being ministerial, he is not required to institute inquiries; so that if the father of a child produces an Extract of the Entry of his marriage, and, if necessary, a Sheriff's Warrant, and requests that legitimation may be recorded, it appears to be the duty of the Registrar—the father stating that the child

has been legitimated—to make (for what it may be worth) the usual entry in the Register of Corrected Entries in favour of the child. And of course any point as to which a Registrar has doubt or difficulty should be reported clearly and fully to the Registrar-General in order that instructions for that special case may be received.

It was from Rome that we got the idea of legitimation; and the monogamic principle held good also in Roman Law in the relation called *concubinatus* (concubinage). The rule was that “A man who is married cannot have a concubine, nor can any man have more than one concubine at a time.” *Concubinatus* was, thus, in character monogamous.

In accordance with the well-known general rule of law, Legitimation of the offspring previously born, like other civil consequences of a marriage, depends upon the question of the *legal domicile* of the husband and father at the time of the birth and marriage, and not upon the place of the birth of the children or of the marriage of the parents.

In Roman Law children born in concubinage were legitimated by the subsequent marriage of their parents, according to a rule first introduced by Constantine. The privilege was made permanent by Justinian. In A.D. 1160 it was introduced by Pope Alexander III. into the Canon Law. The rule has held its ground in the Roman Law of Continental Europe, as well as in Scotland.

Legitimation does not exist in England. Prompted by the Canonists, the bishops tried to introduce it into England (A.D. 1225); but the attempt was defeated by the barons at the Great Council held at Merton, as then recorded in legal Latin thus:—*Omnes comites et barones una voce responderunt quod nolunt leges Anglie mutare que usitate sunt et approbate* (20 Henry III. Stat. Mert.).

But though the barons' famous words—“*Nolumus Anglie leges mutari*,” seem to point to the contrary, such power of

legitimizing the children, of a couple, born before their legal marriage appears to have been part of the ancient customs or Roman law in England before the Saxon Conquest (Bryce, "Studies in Hist. and Jurisprudence," Vol. I., p. 86). So that when the barons refused to alter "the laws of England which have hitherto been used and approved," the "hitherto" covered in this connection a period of more than seven centuries, if authorities are right in asserting the existence in England of legitimation down to the time of the completion of the Saxon Conquest.

In Germany, France, and Normandy, for centuries it was customary to place the children at the wedding under a cloak held by the parents. From this practice "natural" children (*liberi naturales*) thus legitimated were called "mantle" children; and a similar skirt or cloak custom existed down to the beginning of the last century in some parts of Scotland.

In France, the children must still be acknowledged either before or at (not after) the marriage. And in Scotland it has been decided that a child cannot be legitimated after its death.

N.B.—No alteration can in any case be made upon the original entry of Birth *as a consequence of the recording of legitimation*. If an Extract is desired (sec. 56), the Entry must be copied *as it stands*, with the relative insertion in the Register of Corrected Entries as to the Legitimation written on the back of the Extract (Regulations, page 28, letter *b*).

CHILD'S NAME AFTER LEGITIMATION.

Parents are sometimes extremely desirous of having the word "Illegitimate" omitted; the surname of the child altered; the name and designation of the father inserted; and other such-like alterations made upon the Birth Entry of a child legitimised by their subsequent marriage. Hence the necessity for pointing out emphatically that the Registrar has no power to comply with such requests.

The marginal reference on the Birth Entry and the insertion in the Register of Corrected Entries record the Legitimation ; the Birth Entry itself remaining as it was made at Registration. In such cases as in those where Decree of Paternity recorded, the Registration Acts make no provision for altering, in the Birth Register, the surname of the child. But that the child is entitled to use the surname of the father is shown by the insertion in the Register of Corrected Entries, which is copied on the back of an Extract of the Birth Entry when such is required under sect. 56.

As the question is being asked so frequently, it is well to repeat that *nothing can be done to alter the original Entry of Birth* ; although, of course, as indicated above, the child is entitled, in the circumstances, to be called by the surname of the father.

LEGITIMATION: WARRANT OF THE SHERIFF.

If the paternity of a child has not been registered as having been acknowledged, nor determined by decree of a competent Court, the Registrar cannot note the Legitimation simply on production of an Extract of the parent's marriage. In addition to the Marriage Extract, the Registrar requires to receive as authority for an insertion in his Register of Corrected Entries, a Warrant of the Sheriff, granted on the application of both parents, "of which intimation shall be made as such Sheriff may direct, and after due inquiry" (sec. 36).

The inquiry generally takes the form of a remit to the Registrar of the District where the child is registered, who is asked if there is any reason to doubt that the male petitioner is the father. Of the application the Sheriff makes such intimation as he thinks fit ; and, in terms of sec. 36, would hear any parties having a legal interest to oppose the granting of the Warrant.

In some cases, the Sheriff directs intimation of the purport at least of the petition to be sent to the male petitioner's next of kin : this appears to be deemed necessary, in certain circumstances, when a considerable period has elapsed from the time of the birth. The receipts for the posting of registered letters containing copy of petition with Sheriff's direction are sufficient evidence generally of intimation to next of kin, when the Sheriff directs such procedure to be adopted.

In one or two cases, the Registrar has been directed by the Sheriff to exhibit the petition for seven or fourteen days in his office ; warrant being granted thereafter, under certification by the Registrar that the petition had been duly exhibited and that no objection had been raised.

(*Vide* "Further Notes and fresh Forms," at end of Chapter VI. on SPECIAL POINTS.)

The letter of the section requires the joint application of *both* parents. In two or three exceptional cases, however, Sheriffs have granted warrant upon the application of the surviving parent. In an instance where application was made, some sixteen years after the birth, by the mother, warrant was granted at Aberdeen on 4th July, 1894. Here, although the putative father failed to attend and acknowledge the paternity at the registration, he had written to the Kirk-Session and confessed that he was the father ; and a copy of this letter to the Kirk-Session accompanied the petition, also an extract of the Death Entry of the father. Specially particular inquiry is made in such exceptional cases to make sure that the deceased parent would most likely have concurred in the petition before the Sheriff will decide to exercise the discretionary power to grant Warrant on the application of one parent.

FOUNDLINGS, OR EXPOSED CHILDREN.

In terms of section 29 of the Registration Act, any person finding exposed a new-born child, or the dead body of a new-

born child, must, at once, under a penalty of £2, give notice to the district Registrar, Constable, or Inspector of the Poor, who, under the same penalty, must give notice to the Procurator-Fiscal. The Result of Precognition regarding the *Death* of a newly-born child found exposed is not to be used as authority also for recording the *Birth*, on the information of the Procurator-Fiscal, without requiring him to sign the Entry. The Informant (*vide* s. 29) must sign the Entry of Birth.

Unless the Fiscal's "Result of Precognition" clears up the mystery, the birth entry is very incomplete generally in such cases, showing, in Column (2) only the date, time, and place, of finding (as shown in Example No. 10 of Birth Register). If, however, the foundling is "adopted" immediately, the birth should be registered under the surname of the adopting parent: or, the finder or informant may fix upon a name to be recorded for the sake of future identification. It is right to remark here that adopted children have no legal family rights: "adoption" not being recognised by the Law of Scotland. After, or before, their names in Column (4) the words "adopting parents" must be inserted in the case of a foundling, to prevent the possibility of the birth entry being misleading.

STILL BIRTHS.

Still-born children are not registered. There is sometimes a doubt as to the child's viability. High medical authorities hold that a child is still-born, although the heart may beat for a little after delivery, where *no respiration* occurs, the lungs failing to become inflated. That is probably why, occasionally, a parent thinks a child lived, when the doctor settles the matter by certifying it to be still-born: and, it is generally understood that unless a child has had a separate existence from the mother it has not had that

brief span of life which involves and requires the registration of both its birth and death. (The feeling, however, seems to be growing in favour of some record of still-births.)

When the birth and death of a child afterwards certified to be still-born have been recorded, the Register is corrected by the cancellation of the entries, on the authority of the Sheriff obtained in accordance with the provisions of section 63. In such cases, the Registrar generally communicates with the Doctor who certifies, and with the Informant, to make sure that there is no dubiety as to the child being not born alive, before applying to the Sheriff, in the ordinary way, for authority to delete the entries made under a misapprehension regarding the real circumstances. (For the usual Form of Petition, see Chapter VI.)

PRODUCTION OF CHILD.

Section 28 provides :—

“In case of any doubt existing as to the Sex or regarding the Birth of any child, it shall be lawful for the Registrar to require the production of the child, and the parents or any person in charge of the child shall be bound to produce it to the Registrar unless prevented by the illness of the child, or other reason satisfactory to the Registrar, under a penalty of 40s. in case of non-compliance.”

In extremely rare cases there is some dubiety at birth as to the sex of a child; and in any such case the simplest method is to delay registration until the sex signs develop distinctly, taking care that registration is effected within three months from the date of the birth.

In at least one instance a tactful Registrar made good use of the powers given by this section to prevent a woman from registering as her own, and as newly born, a child some weeks old which she had procured; and a reference to

section 60 (penalty for false information) brought out the truth regarding the birth.

DOUBLE REGISTRATION.

In the Registration sense, the word domicile means, generally, the usual residence of the father in the case of a legitimate birth, and of the mother in the case of an illegitimate.

Where a child is born in a district different from the domicile, the Registrar is directed to enter the domicile in Column (4) ; and if the domicile is in Scotland, to transmit a copy of the entry within eight days to the Registrar of the district containing the domicile, who transcribes the entry into his Register, as shown in Example No. 5, in Birth Register. Transcripts are not sent if the domicile is further of Scotland.

In the case of female domestic servants and the like, their parents' residence may be regarded generally as their domicile for the purpose of this section (sec. 26).

As Registrars (especially those who are Inspectors of Poor) sometimes hesitate, and inquire unnecessarily, before registering transcripts, it may be well to mention that it is understood that domicile for Registration (intended simply to secure registration in proper local books) is not precisely equivalent to, and the same as, domicile in the sense of the Poor Law.

GRATIS EXTRACT.

The Registrar must give or send to the Informants within two days of date of registration, an Extract of the Entry of Birth registered, without payment of any fee (sec. 37). These gratis extracts are made out on a special form, and are generally given to the Informant at time of registration. Only one gratis Extract is given *as a right*. A child may

be registered without a Christian name. If a name is added or altered in Baptism, the Registrar is entitled to charge for a new Extract with the new name.

BAPTISM.

The extract entry granted at the registration must be produced to the minister officiating at baptism. Failing this, the minister, or other person, must immediately intimate to the proper Registrar the baptism of the child with all the information he has concerning its birth and parentage (sec. 34). This regulation is one of the effective checks to prevent a child escaping registration.

BAPTISMAL NAMES.

The Christian name given at Baptism, if different from that recorded at Registration, may be entered in the Birth Register by means of an insertion in the Register of Corrected Entries and marginal reference in the Entry so altered.

See Example No. 2 prefixed to Birth Register. The form used is Schedule (D), (sec. 32).

If the Parent or Guardian does not recognise Baptism, Schedule (E) is to be used (sec. 33).

The charge for recording the added or altered name is 1s. payable to the Registrar, when the parent or guardian lodges with him the Schedule (D) or (E) which must be done within six months after the registration of the Birth (sec. 12, 1860 Act), otherwise the Schedule cannot be entered without the written authority of the Sheriff endorsed thereon (secs. 32 and 33). See Register of Corrected Entries, Examples (1) and (2) of "Additions and Alterations."

The authority may be endorsed either by the Sheriff of the County wherein the child was born, or, if that is incon-

venient, by the Sheriff of the County where the parents are resident. As personal attendance of the parent is not necessary, the Registrar may present the Certificate for indorsation, a procedure which would ensure the obtaining of the authority of the Sheriff of the County of birth.

BIRTHS AT SEA.

Births and Deaths at Sea are recorded by the Registrar-General of Shipping and Seamen, Custom House, London, E.C., who issues, for a small fee, copies of such Entries.

A return is made by him, every month, of Scottish subjects to the Registrar-General for Scotland, for insertion in the Marine Register Book (57 & 58 Vict. c. 60, 254).

Events on Board *H.M.* Ships of the *Navy* are, however, intimated directly to the Registrar-Generals of Scotland, England, and Ireland, according to nationality of parents (37 & 38 Vict. c. 88, sec. 37).

The 30th section of the Registration Act was repealed in 1874; and all that the law now requires is registration by the Registrar-General of Shipping and Seamen under the provisions of sec. 254 of the Merchant Shipping Act, 57 & 58 Vict. c. 60 (printed in Appendix E).

BIRTHS IN BRITISH DOMINIONS BEYOND THE SEAS.

Births in British Colonies are recorded in the Colony in which they occur, under various Ordinances issued by the Colonial Office. An Abstract prepared by Mr. de Jastrzebski of the arrangements respecting Registration of Births, Deaths, and Marriages, in the British Dominions beyond the Seas appeared in the Appendix to the 65th Report of the Registrar-General for England.

FOREIGN BIRTHS.

The birth (or death) abroad in a Foreign Country [not a British Colony or Dependency] of a child of Scottish parents, if duly certified by the British Consul of the place, and intimated to the Registrar-General *within twelve months of its date* will be recorded in the Foreign Register kept in the General Registry Office, Edinburgh (sec. 10 of 1860 Act). The Consul's Certificate must accompany the application.

Birth in Railway Carriage.—A Birth while the Mother travelling in a train not far from her domicile has been allowed to be registered there upon her arrival at *destination*. The District of destination, indeed, is the most convenient place for the registration of such exceptional events.

ENGROSSING OF ENTRIES.

The Registers being records not for a day but for all time should be written carefully. Every letter in a word should be clearly formed. In cases where there are more ways than one of spelling a Christian name or a surname, the spelling of the Informant is to be accepted. Thus, Eleanor, or Elinor, Helen, or Ellen, Stuart, Stewart, or Steuart.

Ink.—If the Registrar has had any experience in deciphering faded and faint old Registers, he will appreciate the necessity of using a really durable ink and avoiding blotting paper. And the *writing* must be distinct and bold (Regulations, page 27).

Sunday Registration is obviously undesirable. But it is quite legal. And, on an exceptional occasion, especially in a wide country district, the Registrar may deem it

expedient or necessary, owing to special considerations of distance and urgency or the like, to engross an Entry upon the first day of the week.

PECULIAR CASES.

Each of these has to be considered in connection with all the circumstances. But some assistance in stating a case to the Department and dealing with it may be obtained from the following general hints, which are designedly brief, for it would require too much space to go deeply into detail.

The date of her husband's death is important in considering the case of a WIDOW'S CHILD. It has happened that a Widow has wished to record a child as legitimate when the birth occurred about ten and a-half months after the death of her husband. Upon being quietly shown the "Penalty Notice" (sec. 60) pointing out punishment for giving false information, the lady registered the event as Illegitimate, that word appearing in the first Column and the child being recorded under both her maiden and married surnames alternatively, thus, "John Brown, or Robertson." In Column (4) the Mother is described as "Mary Brown, Milliner, widow of Lewis Robertson, Tailor, who died in Kirkcaldy on 6th June, 1900." And her description remains the same although the paternity should be acknowledged at registration; but giving the child the putative father's surname only, and adding to contents of Columns (4) and (5).

More troublesome sometimes are instances of *Alleged Illegitimate Children of Married Women*.

As the marriage is undissolved, the word "Illegitimate" is not inserted in Column (1) in such cases; but the child is named alternatively in the maiden and married surnames of the mother. And in Column (4) is inserted a voluntary declaration as to paternity.

Thus, "A. B., wife of C. D., who, she declares, is not the father of the child; and, further, that she has had no personal communication with him since (*say*) they ceased living together three years ago."

If a person acknowledges the paternity, the child is recorded in his surname.

The above is a form approved generally, but must be used with sufficient care and caution. Still more cautiously must the case of a child born of a bigamous marriage be considered, where it is possible that a child may be entitled to be registered by the party who entered into the (putative) marriage in good faith as his or her legitimate child. The safest method is to forward a full statement of all the circumstances to the Registrar-General, with a draft Entry for the approval of the Department: similarly with the case of the *illegitimate* child of a woman a few weeks married, where husband and mother both declare that the case is not one to which is applicable the maxim *Pater est quem nuptice demonstrant*.

Discretion is required in registering the *issue of an unregistered irregular marriage*. There is occasionally some document offered as evidence of marriage, but the Informant's word may be accepted; and as this approved course is connected with a peculiarity of Scotch Law, an explanation I wrote, ten years ago, in the *Westminster Review*, concerning this interesting question may be here quoted to clear away a common misconception.

"IRREGULAR MARRIAGES AND ILLEGITIMACY."

A "Note on Marriage and Divorce in Scotland," which appeared in the August *Westminster*, is alike interesting and accurate—save regarding one point of practice.

Speaking of the issue of an unregistered, irregular marriage, the writer mentions a "curious anomaly," which, however, does not exist. He says such "children will be registered as

illegitimate until such time as the parents register their marriage ;” and that “ Before the child of such a couple can be registered as legitimate, there must be forthcoming an extract of the marriage of the parents.”

The fact is that such children may be, and almost invariably are, registered as legitimate. This is the only logical course consistent with the state of the law, which renders an irregular marriage valid, *but does not render its registration compulsory.*

Accordingly, the Registrar is empowered to accept the Informant's statement as to his or her marriage in registering a birth, inserting in the entry of the natal event the date and place of the irregular marriage as given, and consequently registering the child as lawful and legitimate.

During the decade the present writer has made a special study of the subject of Scottish marriage, the prosecutions for giving false information have been very few. The 1100 Registrars and their almost equal number of assistants scattered over little Scotland know fairly well what goes on around them, and they are intelligent men not easily imposed upon. They have the right, under the Registration Act, to warn any Informant of the penalty for giving false information; and in cases of doubt and difficulty, Registrars apply for particular instruction to the Registrar-General of Births, Deaths, and Marriages (Keeper of the Records of Scotland), who, by a special statute (Lord Clerk Register (Scotland) Act, 1879), must be a mature lawyer—the universally recognised authority on registration.

However plausible in theory, it is not, therefore, correct to assume that illegitimacy is increased by the births of children whose parents have not gone to the expense of registering their irregular marriage. And the writer continues under a misconception of the practice when he asserts: “ That although the Scots law will maintain a marriage by consent, pure and simple, without the intervention of priest and registrar, yet

through the working of the Registration Acts, the children of such a marriage will be counted among illegitimate births." Obviously illogical would this erroneous registration be ; and clearly at variance with the validity of an irregular union, although unregistered.

There are quite enough real anomalies in the marriage law of North Britain without adding an imaginary one. Even to Scottish lawyers above the average, the matter is often somewhat misty. For example, in a handbook of marriage published a year or two ago, the learned legal author gave as an illustration of the Marriage Notice Act, a case where one of the intending parties had her dwelling-place in Dublin, whereas, that Act is applicable only where both the parties are qualified by residence in Scotland ! This restriction is made only indirectly in the statute, and so sometimes escapes observation, with results awkward and embarrassing.

To prevent the possibility of anyone being misled by " A Scot's " slight slip as to the practice of registration, it is well to emphasise the fact that children are not registered as illegitimate in Scotland when their parents have entered into any kind of a valid marriage, however brief may be the period between the marriage and the birth.

I further suggested that possibly the writer had confounded the registration of illegitimates with *Legitimation per subsequens matrimonium*, but pointed out that to secure the status of legitimacy for a child born out of wedlock is quite a different matter from recording the birth of a bairn born in wedlock of the convenient but hazy character of Scottish unregistered marriage, a form of union happily extremely rare and exceptional.

Most of the apparently anomalous cases of Registration proceed from the peculiarities of our Marriage Law. This chapter and the two following describe, generally, the practice of Registration in ordinary cases of Births, Marriages, and

Deaths. More peculiar instances are given in the final chapter, explanatory of Special Points.

VACCINATION NOTE.

At the registration of every birth, if the child is then alive, the Registrar hands to the Informant a "Notice of the Requirement of Vaccination." In this form, Schedule D, is inserted the name of the child, and the number of the entry in the Birth Register; followed by Schedule forms A, B, and C (sec. 11 Vaccination Act, printed in the Appendix).

The Act requires that the child should be vaccinated within six months from the date of its birth. The primary responsibility rests with the father, or mother; whom failing, the guardian or person having charge of the child (sec. 8, *ibid.*).

The Vaccination must be by a registered medical practitioner. Certificates by mid-wives and non-registered practitioners cannot be accepted.

Schedule A is for certifying that the child has been "successfully" vaccinated; B, that it is "unfit" for vaccination, and that the operation is postponed; and C, that the child is "insusceptible" of the Vaccine Disease (sec. 10 of Vaccination Act).

The certificate of successful vaccination, Schedule A, must, forthwith, be delivered by the operator to the parent, and lodged by him, within three days, with the Registrar to be entered in the "Vaccination" Birth Register (sec. 8, *ibid.*). (No entry as to vaccination is allowed to be made in the other Birth Book.)

If the child died unvaccinated, that fact is recorded in the phrase prescribed:—"Died before Vaccination." In other cases, the Register contains a statement that the child is "Vaccinated" or "Insusceptible," with date of Doctor's Certificate. The Registrar is entitled to a fee of 3d. for registering

each case of Vaccination (sec. 16, *ibid.*), and the number of entries for which payment is claimed must appear in his half-yearly account. (Vaccination Regulations, Articles 23–25.)

Cases of postponement are recorded in the special book titled “Register of Postponed Vaccinations.” The certificate of “Unfitness” and postponement, Schedule B, covers a period of two months, at the expiration of which a fresh certificate is required (sec. 9, *ibid.*): and upon receipt by the Registrar of a Schedule B Certificate, he should at once furnish another copy of Schedule D to the parent or guardian of the child whose vaccination has been postponed, to ensure that the subject shall be kept in mind and a further certificate duly forwarded.

Should no certificate be received when due, the Registrar must intimate such failure to parent or guardian by “Registrar’s Notice—pursuant to section 17,” which adds that if no certificate is furnished within ten days, a liability to a penalty of 20s., with 1s. to the Registrar for the notice, is incurred, or imprisonment for ten days.

Certificates, however, are generally transmitted in due course, well within the period allowed. Many children, indeed, are vaccinated at about four months, as a suitable time. (In England the system differs in detail from that existing in Scotland.)

A List of defaulters, if any, is made up by the Registrar, to be laid before the Parish Council, half yearly on 31st March and 30th September. But in populous places such lists are transmitted quarterly, or monthly. In Glasgow, lists are made up every month.

The Act (26 & 27 Vict. c. 108) operated from 1864. The Scottish Statute contains no “conscientious-objector” clause; the main modification being a reasonable extension (sec. 12) of time in certain remote insular and highland regions. The Parish Councils are required by sec. 5, to conform to the regulations made and issued by the Local Board

for Scotland, who do not now insist upon a second prosecution nor prosecution for a second child. The tendency is thus towards consideration of the conscientious objector in Scotland. (See also "Vaccination" in Chapter VI.)

DATES TO BE REMEMBERED FOR RETURNS.

31st *March* and 30th *September*.—Within six days from each of these dates, a Return of Vaccination Defaulters must be sent to the Inspector of Poor.

The *Quarterly* Return of Births, &c. registered, should be forwarded promptly on the first day of January, October, July, and April.

31st *December*.—Registrar to forward Vaccination Return to the Registrar-General; that is, a Return as to Vaccination of Children registered in the *previous* year.

The following is a form of Transcript of Vaccination Particulars, which is required in cases of double Registration of Birth (Vaccination Regulations, page 13):—

$\frac{866}{1905}$	[DENNISTOUN No.]	$\frac{256}{1905}$
	[DUNDEE No.]	

TRANSCRIPT OF VACCINATION PARTICULARS.

In the case of JAMES G. FRASER (Dom., 11 Parker Street, Dundee).

" Vaccinated
as per Certificate
dated 15th August, 1905.

(*Initialed*) W. P., *Regr.*"

The above Particulars are extracted from my Vaccination Birth-Book, and are transmitted for insertion in yours. The relative Birth Particulars were transmitted to you on or about 5th April, 1905.

WM. POTTER,
Registrar.

DENNISTOUN REGISTRY OFFICE,
GLASGOW, 16th August, 1905.

The portion within quotation marks is copied into the "Vaccination" Birth Book—the initials inserted being those of the Registrar of the Parish of Birth.

CHAPTER II.

MARRIAGES.

I.—PRELIMINARIES TO REGULAR MARRIAGE.

To its connection with a proposed alteration of our Marriage Law was attributed partly the failure of Lord (Advocate) Rutherford's Registration Bill in 1847. Any such change being opposed to public opinion at that period, the Registration Act, passed seven years later, expressly provided that—

“Nothing herein contained shall affect the Proclamation of Banns, or the Registration thereof, as at present in use, or the Law of Marriage in Scotland” (sec. 68).

But the public mind altered in a quarter of a century. The fees, and the six weeks' residence, for Proclamation were generally admitted to be too much ; and were declared to act deterrently. But these hindrances were reduced by “An Act to encourage Regular Marriages in Scotland” with the short title of “Marriage Notice (Scotland) Act, 1878 ;” which statute brought, to a considerable extent, within the province of the Registration Department the important matter of Marriage Preliminaries.

A marriage which is not preceded by Publication of Notice, or Proclamation of Banns, in Scotland, cannot be regarded, nor recorded as a regular marriage, under the provisions of the 46th section of the original Registration Act.

Therefore, a Registrar cannot enter in his Marriage Register any marriages which have been merely declared before witnesses or acknowledged before a Kirk-Session or the like. And, to be registered, as regular, a marriage must be preceded by Banns or Notice.

THE MARRIAGE NOTICE ACT,
41 & 42 Vict. c. 43,

came into force on 1st January, 1879. The 4th section of the statute provides that—

“From and after the commencement of this Act, it shall be lawful for ministers, clergymen, or priests in Scotland to celebrate marriages therein after such publication of notice of an intention to marry as is herein-after prescribed (secs. 7 and 8), and upon production to such minister, clergyman, or priest of a certificate or certificates of such publication as herein-after prescribed (sec. 9); and any marriage so celebrated shall be deemed to be a regular marriage as if it had been celebrated by such minister, clergyman, or priest after the proclamation of banns of marriage according to the mode now in use.”

Accordingly, the Registrar may issue a Marriage Schedule upon production of—

- (1.) A Certificate or Certificates of due proclamation of banns ; or,
- (2.) A Registrar's Certificate or Registrar's Certificates, applicable to both parties ; or,
- (3.) A Certificate of due proclamation of banns in the case of one of the parties, and a Registrar's Certificate in the case of the other.

Marriage Notice is not, however, quite on “all fours” with, and of equal authority to, proclamation of banns in

authorising a minister to celebrate a marriage. “No minister of the Church of Scotland shall be *obliged* to celebrate a marriage not preceded by due proclamation of banns,” is a proviso in section 11. But the present writer is aware of only one case where a pastor declines to marry persons not proclaimed but published; and the proviso is not acted upon by liberal and fair-minded ministers of the State Church.

BOTH PARTIES MUST RESIDE IN SCOTLAND.

Really important is the indirect, and implied, rather than specially expressed, limitation in section 7, which confines Notice to the case of “persons residing in Scotland.” That is, there must be residence for at least fifteen days clear prior to Notice; and *both* the parties must be thus qualified by residence. Therefore, where one of the parties lives furth of Scotland and will not reside there during the three weeks preceding the marriage, the Marriage Notice Act does not apply. It is then a fatal objection generally on the face of an application for Notice that the dwelling-place of one (or both) of the parties is entered as being in England, Ireland, or elsewhere out of Scotland. This objection should be remembered. In some cases where publication has been made inadvertently where one party was non-resident, the error has caused much trouble to all concerned.

OBJECTIONS.

The duties of Registrars under the Marriage Notice Act are explained in Rules; and the point emphasised as to both parties requiring to be resident is contained in Rule 13, headed “Objections.” Non-residence is an objection “on the face of the Notice.” But during the seven days the notice is posted up any person may appear personally and lodge an objection which must be in writing, and subscribed by the objector. Where the objection does not set forth any

legal impediment to the marriage, but relates to some formality or statutory requirement, such as that the parties had not resided fifteen clear days within the district, or are wrongly named or described, or that the Notice is merely otherwise inaccurate in some detail, the Registrar must suspend the issue of the Certificate and report at once through the Sheriff-Clerk to the Sheriff or Sheriff-Substitute of the County.

The Sheriff may allow the notice to be amended without republication, or may order it to be cancelled if he shall see fit. In the latter case, the parties may give notice afresh: in the words of the Act, sec. 10 (*a*), "it shall be competent for the persons intending to contract marriage to give notice *de novo* of their intended marriage."

Withdrawal.—No authority is given in the Act for a Registrar to withdraw the Notice if so desired by the persons who lodged it, on the ground that the marriage is not to take place. The course generally in such a case would, therefore, appear to be for the parties not to apply for the Certificate of Publication at the expiry of the seven days' exhibition of the Notice.

Legal Objection.—Where the objection avers a legal impediment, the Registrar must suspend the issuing of his Certificate until there shall be produced to him a certified copy of a judgment of a competent court of law to the effect that the parties are not in respect of the objection disqualified from contracting Marriage, sec. 10 (*b*).

Penalties.—By section 14, the wilful statement of a false objection shall be deemed perjury, and, on conviction, shall be punishable as such.

A Registrar wilfully granting a Certificate without full compliance with the requirements of the Act is liable to a penalty of £25, or one month's imprisonment and deprivation of office (sec. 13).

A Clergyman celebrating a marriage without production of a Certificate that Banns have been properly proclaimed, or Registrar's certificate or certificates that Notice has been duly published, is liable to a penalty of £50 (sec. 12). And offences under this section (12) may be prosecuted, but only at the instance of the Procurator-Fiscal under the provisions of the Summary Jurisdiction (Scotland) Acts, 1864 and 1881.

REQUIREMENTS OF NOTICE.

As shown in Forms Nos. 1 and 2 of the Act, the Notice to the Registrar must state the name ; conjugal condition (bachelor, spinster ; widow, widower) ; occupation ; age ; and residence of the parties : and the Schedule must set forth all these particulars in regard—

First, to the person giving the notice ; and

Second, to the person with whom to be married.

The Form contains also, after the foregoing particulars, a declaration—subject to the penalties of perjury—stating that the party giving notice knows of no impediment to the marriage, and has resided within the Registrar's district for the space of fifteen days immediately preceding the date of the Notice. Two householders in the district must sign the notice and declare that they believe the statements therein to be true. (Female householders may be accepted.)

When the parties reside in the same district, and give only one notice, Form No. 2 is used, which is signed by both the persons intending marriage.

The Registrar posts up the Public Notice (Sch. B.) ; and (no objection being lodged) on the eighth day, excluding day of receipt, grants Certificate of Publication, which holds good for three months. That is, it becomes utterly void when the

marriage does not take place within three months. (Even if lodged after the seven days, any objection may be given effect to if received by the Registrar before issue of Certificate.)

Section 18, and last, of the Marriage Notice Act (printed in Appendix G), gave power to the Church of Scotland to shorten to "any period not less than fifteen clear days" the period of residence required for proclamation of banns. And the Church took action in the matter, which, in 1880, resulted in considerable alterations, embodied in an Act of Assembly "on the Proclamation of Banns."

MARRIAGE: ONE PARTY RESIDENT OUT OF SCOTLAND.

As already remarked, a Registrar cannot receive Notice for publication in a case where one of the contracting parties resides in England, or Ireland, or elsewhere furth of Scotland.

The party residing in Scotland has here recourse to proclamation of banns, the alternative of publication being precluded.

The preliminaries to regular marriage by Proclamation of Banns are regulated by the Act of the General Assembly of the Church of Scotland, 1880.

Considering that the Marriage Notice Act was "calculated to affect the practice of proclamation of banns of marriage so long enjoined by this Church," the General Assembly, to counteract the effect of this change in the civil law of the country, ordained and enacted (with consent of Presbyteries, and to facilitate and encourage in time to come the ancient practice of proclamation) the "Act on Proclamation of Banns," dated at Edinburgh, the 28th day of May, 1880.

In connection with marriage where one party is non-resident, special attention is drawn to the portion italicised in the following passage from the above Act of Assembly :—

“I. Residence in a parish for the space of fifteen clear days immediately preceding shall entitle persons purposing to marry and to whose proposed marriage there is no impediment recognised by the laws of this Church, to have the banns of marriage proclaimed in the parish church, and without such conditions no proclamation of banns shall be allowed ; *subject to any exceptions which may be allowed in the case of soldiers and sailors, or where one of the parties has been resident furth of Scotland.*”

In such exceptional cases, accordingly, the minister, where he is satisfied that there is no impediment, may be content with a Certificate of proclamation of the banns of the party who has been residing in Scotland ; or, it would appear that the minister might allow (if he thought fit), in terms of the above passage, proclamation of the banns of the other party after less than fifteen days' residence in the parish. Thus, if desired, a soldier or sailor arriving, say on a Thursday, might be proclaimed, under the benefit of the exception, in his parish of residence on the following Sunday.

The usual practice is for the officiating minister to ask the party unproclaimed in Scotland, if resident, say, in England, to produce a certificate of “publication” (the English word), of banns in the parish of his or her residence ; or, if for any good reason this cannot be produced, to accept any other evidence he may consider sufficient that the party is in a condition lawfully to contract marriage : for example, a statement by some one of standing that the party is single and so forth.

In the case of a party residing in, say, the United States, the Minister in Scotland probably would accept such state-

ment in a note from the Clergyman of the Church attended in America, or from any similar person of position.

Such exceptional cases are dealt with each on its own merits, as the minister may consider the circumstances require. Accordingly, parties should communicate beforehand with the minister who is to be asked to perform the marriage ceremony. It is understood that, generally, in Scotland a minister will marry a couple without hesitation when Banns have been "published" in England for the one party and "proclaimed" in Scotland for the other, although the publication in England is not of statutory authority in Scotland.

In any case, it is sufficient warrant for the Registrar to supply a Marriage Schedule if there is produced to him a Certificate of Proclamation of Banns for the party resident in Scotland (1860 Act, sec. 15), the Act using the word "Certificate" in the singular.

Where *both* parties are coming from England or elsewhere furth of Scotland in order to be married, one of them must put in the time for residential qualification for Banns in Scotland.

MARRIAGE IN ENGLAND.

By the Marriages Validity Act, 1886 (49 & 50 Vict. c. 3), a Certificate of Proclamation of Banns for one of the parties is valid in England, the banns being proclaimed according to the law or custom prevailing in Scotland, and not in the manner required for the publication of banns in England.

A Certificate of Proclamation of Banns in Scotland is available, however, for one party to a marriage to be celebrated in England, only when the marriage is to be by certificate *without licence*.

For a marriage to be solemnised in a Presbyterian Church, the following seem to be the preliminaries when both persons reside in Scotland but desire to be married in England:—A notice is required to be given to the Superintendent Registrar of district in which the marriage is to take place.

Such notice cannot be given until after seven days' residence in the district in which the church is situated ; and one of the parties must have resided for that period (seven days) in the registration district in which they are to be married. If the parties live in different Superintendent Registrars' districts, each party must give notice to the District Registrar of his or her district.

The notice is given on a form supplied by the Registrar ; and a declaration as to the residence of the parties and a statement of the church where the marriage is to take place. The church must be one certified for public worship and registered for marriages. The Registrar is furnished with a List of Churches and Buildings so certified : and it is believed that practically all Presbyterian Churches in London are so certified and registered.

The notice must be exhibited for twenty-one days in the Register office before the Superintendent Registrar issues his certificate authorising the solemnisation of the marriage. The minister requires to see this certificate, which remains valid for three months from the date of the entry of the notice by the Registrar.

To ensure that everything may be quite in order, it seems desirable to communicate with the clergyman, who will be able to inform the parties what is required to satisfy the Church—such as publication of banns on three separate Sundays.

A marriage cannot be solemnised in any registered building without the consent of the minister, or of one of the trustees, owners, deacons, or managers thereof (19 & 20 Vict. c. 119).

One Party in Scotland.—The preliminaries to marriage *without licence* are as described above ; and in the case of such a marriage, due Proclamation of Banns in Scotland (on three Sundays or equivalent) may take the place, *for one of the persons*, of the Notice, if one of the parties resides in Scotland.

Both Parties in England.—If the marriage were to be by *licence*, and parties living in different places (in England or Wales), it would be necessary for one of the contracting parties to reside in some district in England for fifteen days before giving notice to the Superintendent Registrar of such district, the other being at the time the notice was given by such party also in some district in England or Wales ; which must be specified in the Notice.

The proceedings are otherwise much the same as those already sketched above ; except the time of residence being fifteen days, and that the licence would be issued and the marriage solemnised after the expiration of one clear day following that on which the notice was entered.

If the parties were residing in different districts when the notice was given, the marriage could be solemnised in either of the districts, but the place of marriage would have to be stated in the notice ; separate notices in each case are not required.

If the parties live in different districts and only one of them has resided in a district for fifteen days, the notice must be given to the Superintendent of the district in which he or she has the residence. Either party, however, may give the notice, and the marriage may take place in either of the districts.

Thus it would appear that *without licence* the parties must wait for twenty-nine clear days, and that twelve days are cut off in cases of licence. The Registration Officers' fees for a marriage by certificate without licence amount to 7s., and for a marriage by licence to £2, 14s. 6d. If a copy of the entry is required at the time of the marriage, there is, in each case, the additional fee of 2s. 7d.

Attendance of Registrar.—In cases of Nonconformist Marriages (in Presbyterian Church), whichever way is adopted, until recently the attendance of the Registrar at

the ceremony was necessary. But now under the Marriage Act, 1898 (Nonconformists), it is optional for the parties to dispense with his attendance; in that case, however, on giving notice they must be prepared to state, if they do not desire that the Registrar should attend, that there is a duly authorised person to take his place at the church, and such authorised person has to be a person who has been nominated by the Trustees or governing body of the church, and whose name has been recorded with the Registrar-General for England, Somerset House, London. Registrars and Superintendent Registrars are provided with Lists showing what Registered Buildings have "Authorised Persons" under this Act.

As a matter of fact, it was asserted that this Act was for two or three years practically almost a dead letter, hardly any of the Nonconformist bodies having adopted it by appointing duly authorised persons. Consequently, it was not usual to find, say a Presbyterian Church, where the Registrar's attendance at the ceremony could be dispensed with, and notice had to be given that his attendance was required when the original notice is being given. But now, of the 14,000 odd Registered Buildings for Marriages, some 2000 have adopted the Marriage Act of 1898, and have appointed Authorised Persons before whom about 7000 Marriages annually are solemnised.

Special Licence.—For £30 can be obtained from the Archbishop of Canterbury, and from His Grace only, a Special Licence which confers the right to be married at any place and at any time. Special Licences are not recognised by the law of Scotland.

Common licences to be married in any church or chapel belonging to the Church of England cost a little over £2, and are issued by the Surrogates and Vicars-General appointed by the Archbishops and Bishops.

Since 1886 the "Canonical" hours within which marriages in England can be celebrated are from 8 A.M. to 3 P.M. (Marriage Act, 49 & 50 Vict. c. 14).

The foregoing sketch of a section of the practice in England is necessarily brief; and parties in Scotland to be married in England desiring more details or guidance, should communicate with the Superintendent Registrar of the district in which the marriage is to be contracted, or with the Registrar-General for England, Somerset House, London, W.C.

MARRIAGE IN IRELAND.

In a case of intended marriage in Ireland where one of the parties resides in Scotland, the party resident in Scotland should procure from the minister of the congregation with which he or she has been in connexion for a month at least preceding, a certificate that banns of the intended marriage have been published in that congregation on three different Sundays. From and after the expiration of seven days from the granting of such Certificate, its production to the Registrar in Ireland will authorise him to issue his Certificate and grant licence for marriage. The Registrar in such cases can only receive notice for marriage by licence.

By reason of the various modes of procedure adopted for the different religious bodies, the Marriage Law of Ireland is exceedingly intricate. The above statement is taken from the Irish Registrar-General's Digest of the Marriage Law wherein it is stated at page 54 that—

Marriage in Scotland, one party residing in Ireland.—
"In cases of marriage in Scotland, after Proclamation of Banns, where one of the parties resides in Ireland, some doubt appears to exist as to the requirements of Scotch law.

It is understood that the practice in Scotland is to require a Certificate of Proclamation of Banns in Ireland. The Irish Statutes, however, make no provision for the Publication of Banns in such a case." And it is understood, accordingly, that it is not absolutely necessary for a party coming from Ireland to be married in Scotland to take any steps to have Banns proclaimed in Ireland. As already indicated, however, the parties should ascertain the opinion of the minister who is to be asked to celebrate the intended marriage, as to what he will deem satisfactory evidence that the non-resident party is in a condition to lawfully contract marriage.

MARRIAGE OF BRITISH SUBJECTS OUTSIDE THE UNITED KINGDOM.

Marriages by British subjects contracted abroad according to the forms required by the law of the place are valid : but parties purposing to marry abroad should ascertain for themselves from the clergyman there who is to celebrate the marriage, or other responsible persons on the spot, or elsewhere, what these forms are precisely.

The Foreign Marriage Act of 1892 consolidated the Acts relating to marriages of British subjects outside the United Kingdom. And the Order in Council issued pursuant to the statute specifies certain proceedings required to be taken regarding notice (or publication of Banns) in the home country ; but these cases are so very rare in Scotland that it scarcely seems worth while giving details here. It may be mentioned, however, that in certain cases Marriages between a British subject and a foreigner are valid under this Act (55 & 56 Vict. c. 23, secs. 4 and 5): and that British subjects abroad may marry each other in the presence of a British Ambassador or his substitute, the validity of such marriages depending upon compliance with the requirements of this Act and the relative Order in Council of 28th October,

1892 (page 25, Statutory Rules and Orders of 1892). Clause 6 (4) of the Order in Council instructs that:—"If the party dwells in a place in the United Kingdom the Notice shall be given in the like manner and on payment of the like fee, as if that party were about to be married in that place and in Scotland shall be Proclamation of Banns." The procedure is thus that of the Act as to Banns, modified to suit the special circumstances; and only one case has occurred in my experience. The matter appears to be one upon which any further instruction is obtainable from the Foreign Office, London.

The Session-Clerk of the parish in which the banns are proclaimed in Scotland, on payment of the usual fee for Banns, and in like manner as in the case of a marriage in his district, gives a Certificate of Proclamation of such Banns. And the Certificate of Proclamation must be produced to the Consular Marriage Officer.

In the case of a person proceeding to, say, India or America or South Africa, and purposing to get married soon after landing, it is advisable to have the Banns proclaimed in Scotland; as the Certificate of Proclamation of Banns will probably facilitate the marriage ceremony.

PROCLAMATION OF BANNS.

OUT of the rites of the heathen *Sponsalia* of ancient Rome arose the Christian practice of the proclamation of the purpose of marriage. But the History of Banns cannot be even sketched here, where it is sufficient to give the gist of the Act of the General Assembly of 1880, which regulates the procedure of the present day.

Parties desiring proclamation must make application to the session-clerk of the parish in which they reside. Applicants must state full name, residence, occupation, and condition—bachelor, spinster, widow, or widower. One of

the parties must have lived in the parish for fifteen days clear before proclamation. "In order to due proclamation of banns between persons residing in different parishes, proclamation shall be made in the churches of both parishes." It does not matter to which section the parties adhere; banns must be proclaimed in the Established Church of the parish in which the applicant lives.

The application is understood to be considered sufficient if the session-clerk has some personal knowledge of the parties, and believes therefore that they are free to marry. Otherwise, a certificate from two householders is required in the Form (2) appended to the Act of Assembly. This form certifies that the parties are personally known to the signatories; and that one of the parties at least has been resident in the parish for the space of fifteen clear days immediately preceding its date, and "that we have good reason to believe them to be unmarried persons, and not related to each other within the forbidden degrees."

Section III. of the Act of Assembly declares that "Proclamation of banns shall in ordinary cases, be on two separate Sabbaths." But Section V. provides that—

"It shall be in the power of the minister, but in no case obligatory upon him, to complete the proclamation of banns in a single Sabbath, in the case of persons who are well known to him, or in regard to whom he has reason to be satisfied, on the information of others, that there is no impediment recognised by the laws of this Church to the proposed marriage. In this case, the certificate shall not be granted until forty-eight hours after proclamation has taken place, and it shall have the same effect as if proclamation had been made on two separate Sabbaths."

Section VI. enounces that it is the duty of the ministers of this Church (the Established Church of Scotland) to celebrate marriages in their respective parishes on the production of a session-clerk's certificate or certificates of

the proclamation of banns in proper form, within the three months immediately preceding. This is the same time limit as under a Marriage Notice Certificate, regarding which the same Section (VI.) mentions that ministers of the Established Church "shall not be held bound, but shall at the same time be at liberty, if they see fit, to receive as a valid notice of marriage a Registrar's certificate granted under the Act of Parliament, entitled Marriage Notice (Scotland) Act, 1878."

Episcopalians.—10 Anne, cap. 97, allows proclamation of banns in Episcopal chapels, but enjoins, under penalty, that proclamation should also be made in the churches to which the parties belong as parishioners by virtue of their residence.

Quoad Sacra Parishes.—It may be remarked that where the parish of residence is a parish *quoad sacra*, the proclamation is authorised to be made in the church of parish *quoad sacra*; and not in the church of the old parish out of which the *quoad sacra* parish was carved and constituted under 7 & 8 Vict. c. 44. Parties do not appear to be expressly debarred from being proclaimed in the church of the Civil Parish; but the spirit of the decision in the Wishaw case implies that the proper place is the church of the *quoad sacra* parish.

Objection.—If anyone wishes to bring forward objection to a marriage proclaimed, the proper course is for the objector to mention to the minister in private what the objection is; and such cases are extremely few, as the only valid objection seems to be a legal impediment, such as that the man had a wife living whose existence could be proved.

Schedule (C).—The parties having been duly proclaimed, and no objections offered, the session-clerk issues a certificate

to that effect, which is authority for the Registrar of the district in which the marriage is to be solemnised to supply the parties with a Schedule (C). (The Certificate of proclamation has to be exhibited to the Registrar as the warrant for issuing the Marriage Schedule : the Registrar merely requires to see the Certificate, he does not write upon it, or retain it.) This Schedule (C) has to be shown the minister at the marriage, with the Certificate of proclamation or of publication. Ministers may be furnished by the Registrar with copies of Schedule (C). *Vide* Regulations for Registrars, page 20, letter *d*. But generally the parties obtain the Schedule from the Registrar themselves. The small supply which is given a Minister at his special request, and only in rare instances, is meant entirely to meet an exceptional emergency : as ministers “should only undertake the filling up of the Schedules in special cases to meet some emergency or for some adequate special reason.” (Letter of the Registrar-General, 31st December, 1904.)

Fee.—By Section VII. and last of the Act of Assembly : —“The fee for proclamation of banns and certificate shall in no case exceed two shillings and sixpence.”

It is to be observed, however, that in some parishes the fees for banns are higher, the authority of the Act of Assembly to reduce the amount exigible not yet being universally admitted.

II.—REGISTRATION OF A REGULAR MARRIAGE.

UPON production of a certificate of proclamation of banns or of publication of notice, as already explained, the contracting parties are entitled to be furnished with a Marriage Schedule by the Registrar of the district wherein the marriage is solemnised, “who shall be bound, as far as possible, to fill up the said Schedule” (1860 Act, sec. 15), which is required to be produced at the marriage to the minister officiating.

The Marriage Schedule is a legal document of the greatest importance, and should be completed with the utmost care and accuracy.

In the first Column, the day of the month must be written in words, showing clearly the precise date of the marriage, and the place where it was celebrated must be specified distinctly. Next, the nature of the preliminaries, thus :—"After Banns," "After Publication," or "After Banns and Publication," as the case may be. And the third part of the heading "How Married" requires the insertion of the denomination : (According to the Forms of the "Established Church of Scotland," "Scottish Episcopal Church" (as shown in examples Nos. 1 and 2, prefixed to the Marriage Register) ; or "United Free Church." The designation of the officiating minister, in Column (6) must be consistent with the denomination which appears in column (1), or the latter must be altered to correspond, when it happens, say, that a couple who, when the Registrar filled up the Schedule, purposed being married by a minister of the Established, were married by a minister of the United Free, Church.

The asterisks in Column (2) and (6) show where the parties, officiating minister, and witnesses should place their signatures. And the Registrar enters in the Marriage Register the *signatures*, not the full names (unless they are signed). Thus in Col. (6)—(Signed) R. H. Fisher, Minister of West Parish, Aberdeen : (Signed) Jas. Brown, Witness ; Jno. T. B. Storey, Witness.

Particular attention should be paid to the transcription of the signatures of the parties in Col. (2). In an extraordinary case, where the Bride died suddenly, her Name was inserted on the margin thus—"Name of Bride : G. A. F., owing to her sudden death, *signature wanting*. A. B., Registrar." Age, residence, &c., should be entered *in a line* with the signatures of the respective parties (Regulations, page 21, e).

In Column (2) the Registrar fills in the parties' occupations and condition—bachelor, spinster, widower, widow—their relationship (if any); and here it may be mentioned that it is understood that the only relationships intended to be indicated in the Marriage Schedule are the various degrees of Cousinship (see Example No. 2 prefixed to the Marriage Register); in Column (3) their age; in Column (4) "Usual Residence," giving full address; and in Column (5) particulars as to their parentage—the various details as to the husband being put in the upper and those as to the wife in the lower portion of the Schedule. If either of the parties is unable to write, such party makes a mark, which is witnessed in the usual way, as shown in the "N.B." printed on back of the Schedule; which note should be read. It concludes—"Where any of the parties sign only the *initials* of their Christian names, or where the signatures do not happen to be quite distinct, it is very desirable that the names should be inserted *in full* immediately below" on the back of the Schedule, where there is a heading in bold type—NAMES IN FULL—with five lines for, respectively, the names of the *Bridegroom*, *Bride*, *Minister*, and two *Witnesses*.

As already mentioned, it is not the full names, but the "signatures" which are transcribed into the Register Books; contractions being engrossed as written,—Jno., Jas., Alexr., Wm., Eliz., and the like. It seems necessary to emphasise the necessity for copying the *signatures*, because, occasionally, well-meaning Registrars write in the full names in Cols. (2) and (6). The rule for correct registration of a Marriage is to get the Schedule completed clearly in every detail, including, generally, the designation of the Minister. Then the Registrar has only to engross the Schedule into the Register with such accuracy that were copies from both of the books and from the Schedule compared with each other, the three would be shown to be alike precisely, differing not even in a

single letter. Except, of course, that the word “(Signed)” before the copied signatures is added in the Register Books.

As printed on the face of the form—the Schedule shall be given to the married parties, who, within three days thereafter, shall either deliver it or send it by post to the Registrar of the Parish (or District) in which the marriage was solemnised ; and in case of failure to do so, the husband, and failing the husband the wife, shall be liable to a penalty not exceeding ten pounds. On being received by the Registrar, the contents of the Schedule shall forthwith be entered by him in the Registers ; and all such Schedules shall be ultimately transmitted by the District Examiner, along with the Duplicate Registers, to the Registrar-General, for preservation in the General Registry Office (secs. 46 and 52 ; 1860, sec. 15).

The minister generally makes sure that the Schedule is duly completed. But where it has been blundered badly, the Registrar endeavours to get another one filled up in the presence of the officiating minister and witnesses. The Registrar cannot himself competently supply material omissions, so if the Schedule is imperfect, he must get the married parties to complete it (Official Regulations, page 20). To make sure that all the Schedules given out are accounted for, most Registrars of large districts keep a “Marriage Memo. Book.” The Schedules for each year are numbered consecutively to correspond with number of Entry to which they apply.

Delayed Registrations.—A Schedule may be recorded although not received within the statutory period. If, however, the delay brings the registration into another year, a reference should be made to the parties’ names, in the index of the books of the proper year, and a copy of such reference transmitted to the Registrar-General, if the duplicate Register has been forwarded by the Examiner to Edinburgh.

PERSONAL ATTENDANCE OF REGISTRAR.

Persons intending to contract a marriage may require the Registrar of the parish to attend at the ceremony at any place within his registration district. Upon forty-eight hours' written notice, he must attend with his Marriage Register (both books) and make an entry of the event, for which he is entitled to receive from the parties a fee of £1, with sixpence for every mile he is obliged to travel in going from his place of abode (sec. 47).

The provisions of this Section are taken advantage of only rarely. In such cases it is not *necessary* to fill up a Schedule (C). It is, however, advisable to do so, before beginning to engross the entry. This precaution ensures absolute accuracy in the spelling of names and the like; and, the draft Schedule being duly numbered and preserved, may be helpful in after years in determining indistinct signatures, in the same way as the "Full Names" upon the back of the Marriage Schedule in ordinary cases.

ILLEGITIMATE PERSON'S NAME IN MARRIAGE
SCHEDULE.

It is understood that the name by which a person is universally known, and which he or she habitually uses and signs, is recognised by the law of Scotland as his or her name, no authority of Court being required, generally, for change of name. Accordingly the contracting parties should sign the surname they habitually use and sign in ordinary life.

In signing Column (2) of a Marriage Schedule, however, it is a precautionary custom (but not compulsory) to add the name by which known at birth, in order to show the connection with the registered name, and to preserve identification.

A child is registered as, say, Robert Craig Brown, the latter being his mother's surname. He is known, however, as he grows up as Robert Craig (probably his putative father's name). There is no provision in the Registration Acts under which an alteration can be made in the Birth Register in such circumstances. But he should add original surname to usual signature when signing at Marriage :—

Robert Craig (formerly Robert Craig Brown).

Similarly, in the case of a bride registered under her mother's name of Kennedy, as Jane Brown Kennedy, but generally known under her reputed father's surname, as Jane Brown, the signature in the Schedule (C) should be—

Jane Brown (formerly Kennedy). Or, "Jane Brown
(the name I have borne from infancy)."

Light is thrown on the point by the Parentage Column (5), which, in the case supposed, would read :—

William Brown,
Farmer (reputed Father).
Mary Kennedy,
Domestic Servant,
(afterwards married to James Thomson, Carter).

If no father's name is given, that portion of the Schedule is left blank.

It is not the custom to insert the father's name in the parentage column in cases where the paternity has not been found by Decree of Court, (nor the child legitimated); but (although this is open to an obvious objection in its abuse), in such cases, it *may* generally be inserted as above, *if desired*, more especially where the party uses the reputed father's surname. And where the paternity has been acknowledged, the father's name should, of course, appear in Column (5).

DIVORCED PERSONS.

Cases of divorce and of bigamy are dealt with, as regards the entries affected in the Registers, by the Registrar-General, in accordance with the provisions of section 5 of the 1855 Act.

The proper description of the "condition" of a person who has been married and whose marriage has been terminated by divorce, is the word (Divorced) after signature and occupation in Column (2) of the Marriage Schedule. Or, more explicitly, C. D., formerly wife of E. F., against whom she obtained a decree of Divorce on (*date*).

In England, a decree *nisi* is not made absolute until the expiry of six months.

But if objection is made to the word (which is sometimes done, generally when the person marrying has raised the action and obtained the decree of divorce), the condition may be left blank, in accordance with the Registrar-General's direction. Or may be filled in as (Formerly married).

A woman may sign the name which she has habitually used and by which she has been generally known since the Divorce.

MARRIAGE WITH FOREIGNER.

Where a British subject is to contract marriage with a subject of a Foreign State, the safest course is to consult the nearest Consul of that State to ascertain that the formalities necessary to render the marriage legal *in the foreign country* have been complied with.

A list of foreign Consuls is published every year in Oliver & Boyd's Almanac.

Marriage with a French subject.—It is the duty of a Registrar to take any opportunity that offers to call attention to the terms of the Circulars of the Registrar-General of 4th

February, 1881, and 20th February, 1885, on the provisions of the French Civil Code ; for the purpose of ensuring that the marriage shall be valid *in France*.

Marriages between British and Belgian subjects are regulated similarly in accordance with the notice in the *London Gazette* of 19th February, 1897 ; intimating that the Belgian Government had brought into accord with the Law of 30th April, 1896, the Form of Declaration issued by the Belgian Legation in London in cases of mixed Marriages in the United Kingdom.

The Agreement entered into between the British and Belgian Governments in November, 1888, on the subject of mixed marriages in the United Kingdom appeared in the *London Gazette* of 5th February, 1889.

In October, 1885, the Registrar-General issued a Circular regarding the *Bavarian* Law of Marriage, which required due public Notice and the granting of a Certificate of non-disability by the Administrative Court of the District in Bavaria in which the husband resides, in accordance with the 32nd Article of the Statute relative to the Law of Residence, Marriage, and Domicile of 25th, April, 1868.

In 1872 the Statute of 1868 was amended by an additional clause to Article 33. The amendment provides that—"A marriage concluded contrary to this Clause possesses no civil validity so long as the Certificate in question has not been produced, except in the case of a Marriage concluded by an individual domiciled *out of Europe*." This Amendment facilitated American civil marriages, but not marriages contracted in England between Bavarians.

Italian subjects purposing to contract marriage in Scotland obtain from their domicile in Italy a Certificate (viséd by the British Consul) ; bearing that banns have been proclaimed or that the person is free to marry : and after marriage generally show Extract of marriage to the Italian Consul where they

reside, in order that the Italian Law may recognise the Marriage.

The practical course in any case of Marriage with a Foreigner is thus to consult the Consul of the Foreign country.

But see notes under "Marriage" in Chapter VI. for the provisions of the *Marriage with Foreigners Act*, 1906, which Statute is printed in the Appendix.

MARRIAGES OF CHRISTIAN BRETHREN, SALVATION ARMY, &c.

Any person truly recognised by a religious community as their minister, and performing ministerial functions in it, with their consent and in good faith, is regarded as being a "minister not of the Established Church," and may, as such, perform the ceremony of Marriage, after due Proclamation of Banns or Publication of Notice (4 & 5 Will. IV. c. 28, sec. 2).

The entry in Column (1) is—

According to the Forms of the "Christian Brethren,"
or "Plymouth Brethren," or "Jewish Law,"
or "Salvation Army,"

or whatever other designation is given; and such marriages are registered in the ordinary way as regular marriages.

MARRIAGE *in facie ecclesiæ* FOLLOWING AN IRREGULAR MARRIAGE.

Where a couple previously married irregularly go through a religious ceremony (merely an announcement to the world of their union), the first column of the Marriage Schedule may contain a reference to the date and place of their irregular marriage. Thus:—Previously married at Edinburgh by declaration on 1st January, 1901, or words to that effect.

The Registration of the first marriage—which generally is the constitution of the contract—does not appear to do

away with the necessity, in such cases, of recording in the usual way (sec. 46) the ecclesiastical ceremony, if a Schedule (C) is duly completed and returned to the Registrar. But, of course, such marriage is included only once in statistical returns.

MIXED MARRIAGES.

But in the case of a mixed marriage celebrated according to two ecclesiastical forms, it is sufficient apparently to record the first, and to insert a reference simply to the date and place of the second ceremony upon the margin of the entry of the marriage, to the effect that the parties were married subsequently according to the Forms of the —— Church.

In England, persons previously married in a register office may be afterwards married in a church on the same day by Bishop's licence (Lord Rosebery and Miss Rothschild); and both marriages may be registered separately.

Such unions count, of course, only as one marriage in statistical returns.

FOREIGN MARRIAGES.

Marriages of Scottish Subjects in Foreign Countries, duly certified by a British Consul and intimated *within a year* to the Registrar-General may be registered under section 10 of the 1860 Act. They are recorded also, it is understood, in the Consular Registers. And the Registers of Marriages solemnised out of the United Kingdom among officers and soldiers of H.M. land forces are to be sent under the provisions of section 2 of 42 Vict. c. 8, to the Registrar-General to be preserved in a record called "The Army Register Book." (See also the Foreign Marriages Act, 1892, 55 & 56 Vict. c. 23.)

Marriages at Sea are rare, and would be registered under the Merchant Shipping Act. It would be well (in the words of Sir Travers Twiss) that masters should abstain from performing marriages on board their vessels.

MARRIAGE WITH A DECEASED WIFE'S SISTER.

If the relationship by affinity continues to be held to be the same as by consanguinity, such marriage is not lawful. In 1861 the Court decided that such a union was not valid, being contrary to the Statute Law of Scotland; and that, therefore, the issue were illegitimate. Public opinion appears to be, however, rather in favour of legalising such marriages; they are now legal in the Colonies; and The Marriage with a Deceased Wife's Sister Bill is at present (1907) under discussion.

In regard to the registration of children born of doubtful unions, see under "Special Points."—2.—Births.—"Marriage Dubious" (Chapter VI.).

III. IRREGULAR MARRIAGES.

A REGULAR marriage in Scotland is one solemnised by a minister of religion, in presence of two witnesses, after due proclamation of banns or publication of notice.

But the principle of Scots Law is that marriage is constituted by mutual consent, of which the religious ceremony is a public declaration and intimation. Scotland adopted the Roman view of the contract of marriage. The ancient lords of the world held that the act whereby marriage was contracted was a purely private one. "No intervention of any state official, no registration or other public record of any sort was required. The two parties, and the two parties only, were deemed to be concerned. The act was a purely civil act, to which no religious or ecclesiastical rite was essential either in heathen or in Christian times. There were, indeed, what may be called decorative ceremonies, some of which we find mentioned in poems like the famous Epithalamium of Catullus, but they had no more to do with the legal nature and effect of the matter than has the throwing of old shoes and rice at a modern British wedding."

Professor Bryce points out, further, that the act of marriage required no prescribed form. "It consisted solely in the reciprocally expressed consent of the parties, which might be given in any words, or be subsequently presumed from facts." The invariable Roman maxim, *nuptiae solo consensu contrahuntur*, explains much that at first may seem altogether peculiar in the marriage law of Scotland, especially in those forms of union described as "irregular marriages."

The Roman principle that "Marriage is contracted by consent only," is clearly traceable in the following statement of our law from Bell's Principles (sec. 1506):—"By the law of Scotland marriage is a consensual contract, requiring no particular solemnity, nor even written evidence, but deliberate and unconditional consent alone. There is no restraint on account of non-age, but that which proceeds from incapacity of consent in persons under puberty. There is no absolute necessity for publication, or solemnity, or celebration, or particular place or time of celebration. There is no necessity for the consent of parents or of guardians."

And fourteen in males and twelve in females, as in Roman law, are the lowest legal ages of marriage, although, in Scotland, marriages at these early ages are almost unknown. There are no *highest* limits of age for lawful marriage, so that persons may marry up to the greatest ages.

(1.) SHERIFF'S WARRANT.

Irregular marriages are entered into by persons who take advantage of the foregoing principle that consent only is necessary, dispensing with proclamation or publication and religious ceremony. Evidence of consent may be parole or documentary. The form generally adopted is a simple written declaration of acceptance of each other as man and

wife. When this declaration has been signed, the Marriage is completed. Two witnesses are required, if the marriage is to be established and recorded in the usual way, under the provisions of Lord Brougham's Act, 19 & 20 Vict. c. 96. That statute declares under what circumstances irregular marriages in Scotland shall be valid ; and provides (sec. 2) that within three months of contracting an irregular marriage the parties may make a joint application to the Sheriff for authority to register it. A formal petition for warrant to register (*vide* Forms *infra*) is prepared, and signed by the parties who, along with two witnesses, appear before the Sheriff, and testify on oath to the truth of their statements in the petition. The Sheriff on being satisfied of the marriage and that one of the parties had at the time his or her usual residence in Scotland, or had lived there for twenty-one days prior to it, grants warrant to the Registrar within whose district the marriage was contracted to enter such marriage in the Register of Marriages on payment of a fee of 5s. for an extract, "which such Registrar is hereby *required* and empowered to give" (19 & 20 Vict. c. 96, printed at end of this Chapter).

Fee.—By circular of 3rd July, 1862, the Secretary of the Registrar-General intimated that a Registrar is "*not* entitled to a fee of twenty shillings for registering a Marriage by Warrant of the Sheriff under the provisions of the 2nd section of the Act 19 & 20 Vict. c. 96." That Act contains no compulsory powers or penalties whereby to enforce the registration of irregular marriages ; and a Registrar, as such, has no official duty to perform in the matter until the Sheriff's warrant to register is lodged with him for that purpose. But, if a Registrar learns that parties have obtained a Warrant, he should request them to proceed with the registration.

Except the 5s. for an Extract, the Act 19 & 20 Vict. c.

96 is silent as to fees : in the early years of that Act, it was considered, apparently, that a fee of 20s. was exigible for the registration of such marriages, in terms of section 48 of the original registration Act. There is no connection however, the latter referring distinctly to marriages established by Declarator or cases of Conviction.

The Circular above referred to was issued after consultation with the Solicitor-General of the day. And, therefore, the correct legal view is that the only fee which a Registrar is entitled to exact from the parties in connection with the registration of an irregular marriage under the 2nd section of Lord Brougham's Act, is the fee of 5s. specified therein, for an Extract which the Registrar is *required* to give.

The impression that the fee of 20s. was exigible arose partly from the fact that it is clearly chargeable in the case of marriages mentioned in the *third* section of Lord Brougham's Act, read in connection with the relative sections (48 and 49) of 17 & 18 Vict. c. 80. But I may, on the other hand, point to the significant fact, that in the Scotch Marriage Bill of 1847, the normal fee for the registration of a civil marriage—proposed on similar lines to that regulated by Lord Brougham's Act—was fixed at 5s.

Unaware of the authoritative opinion embodied in Circular of 3rd July above quoted, but in possession of an opposite view put forth incidentally in a Circular of 1st October, 1856, the late Sheriff Glassford Bell, in August, 1862, decided in a small-debt case in Glasgow that the Registrar was entitled, to the 20s. The learned Sheriff, according to a newspaper report, stated that "as it was a case of some importance, he had consulted Sheriff A. Alison and Mr. Sheriff Smith, and they had come to the conclusion, but not without some difficulty, that the opinion of the Registrar-General was a correct one, and that a fee of 20s. was exigible."

Reference was made in the case to the 48th section of 17 & 18 Vict. c. 80. "Then (continues the report) the 2nd section of the Act 19 & 20 Vict. c. 96, stated that an irregular marriage, on production of the Sheriff's Warrant, shall be registered by the Registrar 'in terms of an Act of the 17th and 18th years of Her present Majesty, chapter 80.' Decree was therefore given against the defender, but in the circumstances without costs."

Although disputed at least once (in 1898 such a case was decided against the pursuer, who had paid the £1 in January, 1894, he being thrown out on the ground chiefly of *mora*) the decision of the very learned Sheriff continues to regulate the point within his jurisdiction (Lanark) in accordance with the explanation on the subject given by the Lord Advocate in the Commons on 18th February, 1898, that—"the finding of a Sheriff in a suit to recover an alleged statutory fee would practically decide how much the Registrar would recover *within the limits of that jurisdiction*."

It would appear, then, that the decision given forty years ago still holds good in Glasgow. The procedure there is probably becoming almost unassailable in the stronghold of acquiescence and usage immemorial, from the commencement of the Act of 1856. The point, however, is not one of great importance from a public pecuniary view; for it appears that marriages under Lord Brougham's Act do not cost more generally in Glasgow than anywhere else in Scotland.

(2.) CONVICTION.

A Justice of the Peace, or other Magistrate, before whom a conviction for irregular marriage has taken place (sec. 48) is required to send intimation thereof to the Registrar of the Parish in which the conviction occurred (sec. 49) in the form for Schedule (K¹) annexed to the Act 17 & 18 Vict. c. 80. The parties are required to attend personally to sign the Register. The event is recorded on the authority of the

relative Extract sentence of Conviction (see Example No. 3 prefixed to Marriage Register); and the Conviction must bear that sufficient proof of residence was adduced in compliance with section 3 of 19 & 20 Vict. c. 96 (see end of this Chapter).

Mostly all irregular marriages now are contracted and registered in accordance with that Act (19 & 20 Vict. c. 96), convictions being almost unknown; but when a conviction does occur the registration of the marriage seems to be compulsory, the Act stating that the parties "are severally hereby required to register such marriage on payment to the Registrar of a fee of 20s." (sec. 48).

The Extract Conviction is retained by the Registrar, for transmission by the Examiner.

There is no time limit stated for Registration, and no penalty: accordingly, marriages established by conviction scarcely form an exception to the general rule that there is no statutory compulsion to register an irregular marriage. The Conviction, however, sometimes concludes by ordaining the parties to register the Marriage.

(3.) DECLARATOR.

Any Marriage established by a decree of Court may be registered by either of the parties in the parish of their domicile, or of their usual residence, upon production to the Registrar of an Extract of the Decree of Declarator, and payment by the parties of a fee of 20s. to the Registrar (sec. 48). In the action for Declarator by the wife of the late General Hector Macdonald, in the Court of Session, 17th July, 1894, Lord Stormonth Darling observed—"This is a consistorial action, and no amount of admission will justify decree without evidence." The defender, by tested document, admitted the marriage by declaration *de presenti*, and consented to decree being pronounced. Decree was granted, after the pursuer gave evidence, in detail, of the circumstances of the secret marriage.

The Clerk of the Court must under a penalty of £2 give notice in the form of Schedule (K²) to the Registrar of the district of domicile or of usual residence of the parties of the import of the Decree of Declarator which has been pronounced (sec. 49).

The Registrar retains the extract decree, and the Schedule (K²), on receipt of which he requires the parties to attend in order that the marriage may be registered as shown in Example No. 5 prefixed to his marriage Register.

NON-ATTENDANCE OF PARTIES.

In cases of Conviction, or Declarator, or Sheriff's Warrant, the official Regulations direct (p. 22) that failing the attendance upon the Registrar of one [or both] of the parties, his proper course will be to enter the marriage, in accordance with Example mentioned above. It is extremely desirable that the parties should attend at the Registrar's Office to supply full particulars for the Entry, and to sign Column (2) of the Marriage Register. Personal attendance is, therefore, preferable, and non-attendance very exceptional. The Registrar puts, in these rare cases of non-attendance, a short note on the margin of the Register stating that he himself has inserted the names, &c., in Column (2) of the Entry, of the party [or parties] unable to attend at the Registration. An approved form of this marginal note is as follows:—

The Bridegroom having been unable to attend at the Registration, his name has been inserted in Col. (2) by me.

J. S., Registrar.

Or, Registered on the information of the Wife, the Husband being unable to attend, and his name having been inserted in Col. (2) by me.

J. S., Registrar.

Or, The Husband having gone to sea, his name has been inserted in Col. (2) by me.

J. S., Registrar.

For carrying through Irregular Marriages by Declaration, Forms differing somewhat in detail are used in the chief Scottish Cities; and the following is a Form used generally in Edinburgh.

FORM FOR IRREGULAR MARRIAGE.

We,

and

hereby Acknowledge and Declare that we have, on the date hereof, within before the Witnesses hereto subscribing, Accepted, as we do hereby Accept, each other as Husband and Wife, and we Acknowledge and Declare ourselves to be married persons.

IN WITNESS WHEREOF, we have subscribed this Acknowledgment and Declaration at , on the day of Nineteen hundred and before these Witnesses

Unto the Honourable the Sheriff of the Sheriffdom
of the Lothians and Peebles,

At ,

The petition of

HUMBLY SHEWETH,—

That, on the day of 19 ,
at the
Petitioners accepted each other as Husband and Wife, and declared themselves to be married persons, and signed the Acknowledgment and Declaration to that effect prefixed hereto, all in presence of

whom I now see in attendance, accept of each other as Husband and Wife, and declare themselves to be married persons, and saw them sign the Acknowledgment and Declaration to that effect, now shown me, which is prefixed hereto; and I know that Petitioner had resided in Scotland for the period of twenty-one days immediately preceding said Marriage. All which I depone to be truth, as I shall answer to God

Compeared also

who being solemnly sworn, and being interrogated, Depones :—

I have heard the evidence given by the preceding witness, above recorded, and concur in everything he has said. All which I depone to be truth, as I shall answer to God.

19 .—The Sheriff-Substitute, having considered the Petition with the relative Acknowledgment and Declaration, and the evidence above recorded, Certifies and Grants Warrant all as prayed for.

“LORD BROUGHAM’S ACT.”

ANNO DECIMO NONO & VICESIMO VICTORIÆ REGINÆ.

CAP. XCVI.—*An Act for amending the Law of Marriage in Scotland.*—[29th July, 1856.]

WHEREAS it is expedient to amend the Law touching Marriages in *Scotland*: Be it therefore enacted by the Queen’s most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled and by the Authority of the same, as follows:

I. After the Thirty-first Day of *December* One thousand eight hundred and fifty-six, no irregular Marriage contracted in *Scotland* by Declaration, Acknowledgment, or Ceremony shall be valid, unless One of the Parties had at the Date thereof his or her usual Place of Residence there, or had lived in *Scotland* for Twenty-one Days next preceding such Marriage; any Law, Custom, or Usage to the contrary notwithstanding.

II. If any persons who shall have contracted an irregular Marriage in *Scotland* after the Day and Year aforesaid shall within Three Months thereafter present a joint Application for a Warrant to register such Marriage to the Sheriff or Sheriff-Substitute of the County where such Marriage was contracted, and shall prove to his Satisfaction that they have been married to one another, and that One of them had lived in *Scotland* for Twenty-one Days next preceding such Marriage, or had his or her usual Residence in *Scotland* at the date thereof, such Sheriff or Sheriff-Substitute shall certify the same under his Hand, and shall thereupon grant Warrant to the Registrar of the Parish or Burgh in which the Marriage was contracted, who shall forthwith enter such Marriage in the Register of Marriages kept by him, in Terms of an Act of the Seventeenth and Eighteenth Years of Her present Majesty, Chapter Eighty; and any certified Copy of such Entry, signed by such Registrar, and which such Registrar is hereby required and empowered to give, charging for the same the Sum of Five Shillings, shall be received in Evidence of such Marriage, and of such Residence or of such previous living Twenty-one Days in *Scotland* in all Courts in the United Kingdom and Dominions thereunto belonging.

III. It shall not be lawful, after the Date aforesaid, to convict any Parties of having irregularly contracted Marriage, unless there shall be adduced to the Justice or Justices of the Peace, Magistrate or Magistrates, before whom the Complaint against such Parties has been brought, sufficient Proof, other than the Acknowledgment of such Parties, that One of them had at the Date thereof his or her usual Residence in *Scotland*, or had lived in *Scotland* for Twenty-one Days next preceding such Marriage; nor shall it be lawful for any Registrar of Births, Deaths, and Marriages in *Scotland* to register any Marriage under the Provisions of the said recited Act, on the Production of an Extract of a Conviction for having irregularly contracted Marriage, unless such Conviction shall bear that such sufficient Proof as aforesaid was so adduced.

CHAPTER III.

DEATHS.

ALIKE for legal, statistical, and public health purposes, the Registration of Deaths is, in many ways, the most valuable work of Registrars.

Accuracy in age and cause of death are of great and national importance. Ages are used for actuarial tables ; and, from the death-rates, it has been deduced that now the average man has an expectation of life considerably longer than by the old tables.

Such extension of the average duration of man's existence is owing largely to the efforts of the Public Health Service, whose officials study the Causes of Death as recorded in the Registers, and set forth, in scientific form, in The Registrar-General's Reports. These supply invaluable aid to Medical Officers in achieving their aims,—the attacking of disease prevalent in a district, and the indefinite prolongation of average existence, their practical motto being—"Longer life for all." In sound social and sanitary conditions, a man of fair constitution ought to die only of old age. But, from sheer ignorance and recklessness, many men may be said to commit suicide. The cause of death may be entered as Liver or Lung disease ; but the victims succumb practically as the result of their own imprudent living, or an utter disregard of Nature's laws. Had they been moderately careful they might have lived to ninety, and realised in ripe age the dreams of their youth. "*Qu'est ce que c'est qu'une grande vie ? C'est une pensée de la jeunesse, exécutée dans*

l'âge mûr." Much remains yet to be done towards the promoting of public health. At present, of 100 persons born upon any one day, only about 50 will be alive after the lapse of three decades, so that still nearly half a generation of men passes away from this pleasant planet in about thirty years.

INFORMANTS.

1. The Informant to be preferred is a relative present at the Death; with the relationship stated, as a Qualification, before the word (Present) in Column (7) of the Entry (sec. 38); or a relative who has at least visited the deceased during his or her last illness.

2. The occupier of the house in which the death occurred, "occupier" having here the comprehensive meaning (sec. 76) mentioned in connection with Births.

Or, if the occupier is the person who has died (sec. 39), and no relative has been present or is qualified, then one of the inmates of the house or tenement in which the death happened.

3. Any other person having knowledge of the particulars.

Sometimes, in rare cases, the best available Informant is the person residing in the next house, who may be described as "Neighbour." Other designations of Informants are "Agent," "Trustee," "Intimate Friend," and the like.

The practical rule is that all Deaths are registered in the parish or district in which they occurred, irrespective of their residence. If there is dubiety as to the place of death, say in the case of a person dying not in a house, that uncertainty is cleared up, generally, by the "Result of Precognition" forwarded in such cases by the Procurator-Fiscal to the Registrar, who reports such deaths to the Procurator-Fiscal (sec. 39). And, of course, the Usual Residence appears in

Column (2) of the Death Entry (See Example No. 7 prefixed to the Death Register).

DEATHS IN A HOUSE

should be registered within eight days (sec. 38).

Penalty for failure to register, 20s.

The perfect recording of a death generally gives rather more trouble than the registering of a birth, chiefly because there are more particulars and *data* to be registered.

In **Column (1)**, in addition to the Christian name and surname—the Christian name being, of course, put first as in a birth entry—the occupation has to be entered. Where the surname has been changed, both are recorded, thus:—“Hamilton (formerly Bruce).” (*Vide* Regulations for Registrars, p. 19, c.)

It is important that the occupations, &c., of adults should be stated accurately. In the case of tradesmen, for example, the differentiating words “master,” “foreman,” “apprentice,” “journeyman,” should be added to the trade; and, in every case, the description should be definite, so that, *inter alia*, the mortality rates in various callings can be compiled. (See Appendix No. 1, pages 38 to 41 of Regulations for Registrars, as to Registration of Occupations, Titles of Rank, &c.) If the deceased person was “Single,” that word is used; if otherwise, “Married” to (Jane Brown) or “Widower” of (Elspeth Thomson).

It is necessary to point out that widows and married women must be entered in Column (1) under the *Married* surname; thus, Anna Murray, widow of John Murray, Baker (Jour.). If twice widowed, the form is slightly altered, for clearness. Example—Elizabeth Mackenzie, Schoolmistress, widow of—1st, David Brewster, Woollen Draper; 2nd, Henry Mackenzie, Road Contractor.

The death of a man more than once married is recorded

similarly, the names of the wives being entered chronologically.

Example:—John Armstrong, Cotton Weaver,
married to—1st, Mary Elliot,
2nd, Agnes Jardine,
3rd, Jane Johnston, or Wilson (if a widow
when married to the Deceased).

In this case, the last wife survives ; if all had been dead, the entry would run—

Widower of—1st, Mary Elliot, &c.

If the deceased person was illegitimate, that word is used in the Entry, being inserted last in Column (1), as shown in Examples Nos. 3, 4 and 5 in Death Register.

In the case of an adult person, it is understood now that the word *Illegitimate* *may* be omitted in the first Column of an Entry of Death, the object of the insertion of the word in Death and Birth Entries being chiefly to facilitate the preparation of Statistics regarding the mortality rates of *Illegitimate children*, the death-rate of whom is higher generally than that of legitimate infants. (Column (5) shows when parents are unmarried.) The principle acted upon, generally, is that, subject to the Registration Acts and the statutory instructions, the particulars are inserted in the Register as given by the Informant ; the wishes of the relatives being, in this way, complied with, as far as possible, in adjusting the precise terms of the Death Entry.

In **Column (2)**, when a person dies away from home, and especially in Entries of Deaths occurring in Public Institutions such as Hospitals, there is inserted, after place of the death, also the “Usual Residence,” which is put within parenthesis.

(See Example 4 prefixed to the Death Register.)

Column (3) contains the sex letter "M." or "F.," and generally the Registrar will ensure accuracy in entering the proper letter, by looking at the Christian name in Column (1) before entering the letter denoting the sex.

If the deceased was a pensioner of the army or navy, that fact should be stated in Column (1) after the civil occupation (if any), thus, "An Army Pensioner," "An Army Reserve Man," or "A Navy Pensioner." As a safeguard against the personation of deceased pensioners, there is a special procedure which I will explain briefly here.

PENSIONERS.

When recording the death of any person whose position in life or parentage affords ground for surmising that the deceased was at the time of his death in receipt of an Army, Militia, Navy, Metropolitan Police, or other Pension, the Registrar should inquire as to this, and if the Informant's statement shows that there is a "Certificate of Identity," the Registrar must procure and must pay one shilling for the same. This certificate has to be forwarded with an Extract of the Death to the proper quarter. If the Pension had ceased previously, generally no such action is required.

Cases where the Identity Certificate cannot be obtained are to be so reported when forwarding the Extract, and, if possible, particulars as to Regiment, or the like should be given. Recipients of non-effective pay from Army and some Navy Votes have no Certificates of Identity. But Metropolitan Police Pensioners are furnished with such Certificates, also Militia-men and Men of the Army Reserve; Widows, whose husbands have died through war service; and some other Pensioners.

The 1s. for Identity Certificate and 2s. 1d. for Extract will be remitted from the Department to which sent:—

"THE UNDER-SECRETARY OF STATE FOR WAR, Pall Mall, London, S.W."

“THE ACCOUNTANT-GENERAL OF THE NAVY, Whitehall, London, S.W.”

Or in the case of Metropolitan Police Pensioners,
“THE RECEIVER OF POLICE, New Scotland Yard, London, S.W.”

Letters so addressed require no postage.

The Deaths of Officers of the Indian Army, and Indian Civil Service, and their Widows and Families, do not come under the above instructions.

DOCTORS AND DENTISTS.

On registering the death of a Medical Practitioner or of a Registered Dentist, the Registrar must forthwith transmit by post, prepaid, to “Registrar of the General Medical Council, 299 Oxford Street, London, W.,” an Extract of the Entry. In the case of a Doctor, an Extract must be sent, similarly, also to “Registrar of the Branch Medical Council for Scotland, 54 George Square, Edinburgh.” These Extracts are not liable to stamp duty; and their cost is chargeable in the Registrar’s half-yearly account.

CHEMISTS AND VETERINARY SURGEONS.

Similarly, an Extract of the Death of a Pharmaceutical Chemist, or a Chemist and Druggist, and of “Any person on the Register of Veterinary Surgeons” (44 & 45 Vict. c. 62, sec. 10), is to be transmitted to “THE REGISTRAR OF THE PHARMACEUTICAL SOCIETY, 17 Bloomsbury Square, London, W.C.” Or to “THE REGISTRAR OF THE ROYAL COLLEGE OF VETERINARY SURGEONS, 10 Red Lion Square, London, W.C.,” as the case may be, who will forward the statutory fee and postage, 2s. 1d., these Extracts being exempt from stamp duty (See “Instructions regarding Special

Death Certificates required to be despatched immediately after Registration," issued to Registrars in August, 1906).

AGE.

In **Column (4)** the Age is entered in figures, with below, the word years, months, weeks, days, hours, or minutes, as the case may be. Should the Death be that of a child of such an age as to make the question appear necessary, the Registrar should inquire regarding Vaccination; in order that, if required, a Certificate of Death before Vaccination may be filled up. The average duration of life in various occupations is made up from age at death here stated, in connection with other *data*, and for statistical, legal, and actuarial purposes, it is necessary to endeavour to secure always the exact age. Therefore, written evidence of age should be asked for; but if none is obtainable the Registrar inserts the age given by the Informant. (Regulations, p. 17, b.)

If, however, the Registrar has reason to suppose that the age is being, say for instance, understated for assurance purposes, he may refer the Informant to the penalty for notice (sec. 60) as to giving false information. This procedure, of course, requires to be used with discrimination. It is, however, obviously not out of place when a man of apparently quite forty, gives at first his father's age as "50 years," when the latter is insured in a Friendly Society, and inquiry shows him to have been really over sixty. (In such a case the correct age was afterwards obtained and entered in the Register.) Such a course should also be followed if the deceased person was certified by the doctor to have died of "Senility," or the like, at a precocious age, or in any similar instance where the Registrar considers that the circumstances warrant it. The Age required is that of the Deceased last birthday.

PARENTAGE.

Column (5) of the Death Entry contains the particulars concerning the Parentage of the Deceased.

As in the case of Births and Marriages, the full names and occupation of the parents are required ; and (as in the case of Marriages), if the parents are unknown—the deceased having been a foundling or the like—the names, &c., of the persons, if any, who adopted or took charge of the child may be entered, with the addition of the explanatory words “ Adopting parents,” or “ Guardians,” or “ Parents by adoption,” or “ Adoptive parents,” or “ Foster parents.”

If either, or both of the parents are dead, that fact should be stated by writing the word “ (deceased) ” after their designation. In the case of *illegitimate* persons, the entry should be either, as in Ex. No. 4, prefixed to the Death Register, if the Father’s name is inserted, or No. 3 if it is not. There is not the same stringent prohibition against inserting the Father’s name in a Death Entry as there is in an Entry of Birth, in the case of a person of illegitimate status ; for the Death Entry in such cases is not sufficient and conclusive evidence of paternity. (Regulations, p. 19, *a-b*.)

If the mother has been more than once married, that fact is indicated thus : (Ex. 1),

Eleanor Ogilvie,
previously Armstrong,
M. S. Blair.

Or, if three times married, and the first husband named Burns :—

Eleanor Ogilvie,
previously Armstrong,
formerly Burns,
M. S. Blair.

DEATH CERTIFICATION.

Column (6) requires particulars regarding
“Cause of Death,
Duration of Disease, and
Medical Attendant by whom Certified.”

This Column, (6), thus records the Informant's Answers to the following three questions :—

“(1.) What was the *Cause* of the deceased's death ?

“(2.) *How long* did the illness continue ?

“(3.) Was the deceased attended by a Doctor ? (If so, state his name and place of residence.)”

In the Registers used in 1855 (*vide* Schedules printed in Appendix), there were thirteen Columns in the Death Books, and Column (11) required “Burial Place, Undertaker by whom certified,” in addition to Column (10) which contained the particulars now covered by Column (6). Under the provisions of section 74 of the Registration Act, in 1856 all the Schedules were altered ; and, too much having been attempted in these early years, further modifications had to be made, dating from 1861, since when the present forms have existed.

As showing how ambitious in 1855 Scotland was to secure statistical and sociological *data*, it may be remarked that the general heading “Description of the Deceased” extended over seven Columns, two of which were for statement “If deceased was married. To whom. Issue in order of Birth, their Names and Ages.” And Column (4) asked “Where born, and how long in the District.” But general experience and practice proved that such biographical details could not readily be procured and recorded.

Medical Certificates.—Down to 1860, the Column for cause of death asked also when the medical attendant “last

saw deceased." That statement is required now only in the Medical Certificate. This Certificate must, under a penalty of £2, be transmitted to the Registrar by the doctor in attendance, during the last illness, and until the death of, any person (sec. 41). The time within which the Certificate has to be transmitted is seven days: it was originally fourteen (sec. 41); but the period was shortened to seven by the 1860 Act, sec. 14, which also provided that, if this is not duly done, the Registrar must send to the doctor a form of Certificate, partially filled up, and request him to return it completed within three days. Envelopes for the purpose are supplied by The Registrar-General. And the practice is to enclose stamped addressed envelope, to expedite return to the Registrar, in the rare and exceptional instances where this procedure is required.

Thus, it might happen that ten (or eleven) days might elapse from the date of the death ere a Medical Certificate was received; but it is only very rarely that there is such delay. In the still more rare and exceptional case where no such Certificate is obtained, the Registrar must enter in Column (6) the statement of the Informant as to the cause of death, which should be noted in pencil in the Schedule of "Questions to be answered by Informant," being the Particulars required to be registered. The words "not certified" are inserted after the cause of death; and the entry should be completed thus at latest in four weeks (Regulations, p. 17).

The Schedule (G) must be signed by a *duly qualified* Medical Practitioner (sec. 37, 21 & 22 Vict. c. 90). If the Registrar has doubts upon this point, and has not convenient access to a copy of the Medical Register, he may apply to the Registrar of the Branch Medical Council for Scotland, 54 George Square, Edinburgh. In the extremely exceptional case where no qualified medical practitioner has been in attendance, and the Informant cannot indicate the

cause of death, the Registrar inserts "Unknown," adding "No medical attendant," "No regular medical attendant," or "No immediate medical attendant." If a Medical Certificate is signed by an unqualified person, the cause of death may be entered as stated, with, however, the words added "Not Certified," or "No qualified Medical Attendant," or "No recent Medical Attendant" instead of the name, &c., of the Certifier. (A Certificate by a "Herbalist" is treated in that way.)

Modified Certificates.—If the Doctor who signs the Certificate alters or qualifies it by stating that he has not seen the deceased for a very long time, the proper course sometimes is to insert the Cause of Death and the duration of Disease, as given in the Certificate, in the 6th Column of the Death Registers, adding instead of the Doctor's name the words—"No recent Medical Attendant." And, similarly, when the Cause and duration are stated by the Informant in the extreme case where the Doctor declines to grant a Certificate at all.

Where the terms of the printed Certificate are modified to show that the Deceased was not attended but only seen after death, the Registrar inserts a parenthetical explanation in Column (6) of the Death Entry just after Disease and Duration: and sometimes the Doctor puts the modification in the Schedule, thus:—

Apparently (or probably)

Chronic Bronchitis

(seen after death)

Or (examined after death).

Of course cases of modified Certificates are not common. Obviously, however, it is right that where the Medical man deems it necessary to alter the terms of the Certificate form materially, the Entry should indicate, accordingly, that the

words in Column (6) "As Cert. by" have not their full ordinary significance, viz., the authority of a Schedule (G) unmodified materially in its statutory printed terms. Most of such cases are covered by the insertion of the words "Apparently" or "Probably" before the Cause of Death; or, where such fact has been indicated, of the words "(seen after death)," (seen *p.m.*); or (Examined *p.m.*) where the Doctor uses that expression; following the Cause, &c., as stated in the Medical Certificate.

Transmission.—Neither the original Registration Act (sec. 41), nor the amending Act of 1860 (sec. 14), prescribes the manner of transmission by the Medical Person to the Registrar of the Certificate. The mode adopted generally is for the Informant to bring the Certificate when he attends to register the death; and the Registrar-General's Regulations (p. 18) enjoin the Registrar, where necessary, to "request the Informant to remind the medical attendant of his duty under the Statutes." Where the Registrar has himself to apply to the doctor (sec. 14, 1860 Act), the Certificate generally is forwarded by post. This question of the mode of transmitting Medical Certificates is regarded as one of importance. In his "Analysis" (p. 48), Mr. Seton observes that "as a general rule, it is desirable that they should be sent *direct*, independently of the friends of the deceased, as an additional guarantee of the registration of the death."

Some doctors are in the habit of (very properly) posting their Certificates to the Registrar; and Dr. J. B. Russell (then Medical Officer of Health for Glasgow) expressed his clear conviction resulting from extensive experience "that it ought to be a direct transaction between the Registrar and the medical man." Dr. John Tatham (now Medical Superintendent of Statistics in the Registrar-General's Office, London) was equally emphatic, saying, "As regards Medical

Certificates of the cause of death, I think these should always be sent by the medical attendant direct to the Registrar, and on no account to the relatives of the deceased as at present [in England] ; for as long as the latter practice prevails, just so long will there be difficulty in persuading medical men to state freely and fully the cause of death. Such diseases, for example, as phthisis, alcoholism, insanity, syphilis, &c., are sometimes omitted from a certificate, out of regard for the feelings of the surviving relatives. Whereas, if the certificate were in all cases sent to the Registrar, who would, of course, be bound to treat it as confidential, there would be no reason for reservation on the part of medical men, and I am sure that none would take place." (Evidence given in 1893 before Select Committee on Death Certification.) But the consideration for feelings of friends falls to the ground when an Extract is required, which, of course, shows the cause of death. So that, in Scotland anyhow, the merely sentimental argument for direct transmission does not appear to be really of much practical account.

The Medical Certificates in Scotland are (with extremely rare exceptions) made out upon the official and statutory Schedule, and are retained in the custody of the Registrar. They may be destroyed after a lapse of at least five years.

The necessary copies of the form, **Schedule (G)**, for medical certificates shall, from time to time, be furnished gratis by the Registrar to every medical person within his parish or district who may be known to him, or who shall require the same (sec. 41). "*Note.*—It is very desirable that all Medical Certificates should be sent to the Registrar *as soon as possible* after the occurrence of the Deaths to which they relate."

And upon receipt of the Certificate duly completed, the Registrar must copy carefully into Column (6) all the causes

specified, with their respective durations added ; all being entered in the order written.

An Alphabetical List of Diseases and Causes of Death is given at page 42 of the Regulations, and many Registrars have the official "Nomenclature," which is helpful, although the edition possessed by Registrars generally is yet without, for example, *appendicitis* in its columns.

The "Suggestions to Medical Practitioners respecting Certificates of Death," and the "New List of Causes of Death," prefixed now to books of Schedule (G), are of the highest utility to the Physician and to the Registrar. The new List is a classification of Diseases on an etiological basis, described as condensed from the Nomenclature of the Royal College of Physicians, with the addition of certain unofficial terms which are still in common use, but which are objectionable, either as being the names of symptoms merely, or as being otherwise indefinite. These objectionable terms are printed in *italics*, "and it is hoped that Medical Practitioners will use them only when accurate information is wanting."

"It is highly desirable that Medical Practitioners should use, in their Certificates of Death, only those terms which are recognised by the Royal Colleges."

English names for Diseases should be used in the Certificate "and vague terms avoided," is the gist of the first Suggestion. The last (numbered 13) reads, "When the cause of death has been verified by a post-mortem examination, the letters P.M. should be added."

The Medical attendant should state the *primary*, and only the important *secondary* diseases, with the time between the attacks and the death, in years, months, or days. Thus, Measles 9 days, Bronchitis 3 days ; indicating that Measles appeared 9 days, and Bronchitis 3 days, before death. It is of importance to indicate the duration. In Surgical cases, the disease or accident is stated for which the operation was

performed ; and in cases of Small-pox the patient's condition as to Vaccination should be given in careful detail :— (1) No evidence of Vaccination ; (2) Vaccinated in infancy only, and the number of scars ; (3) Vaccinated only after infection by Small-pox ; (4) Stated to have been vaccinated, but no scars. If the patient has been revaccinated the date of revaccination should be given, when possible.

Care is required occasionally to prevent confusion in recording Disease ; “asthenia” written cursively is sometimes mistaken for “asthma” ; but experience soon teaches the Registrars the avoidance of such traps, and to record scientific terms correctly as entered in the medical certificates. The duration of the disease, as stated in the certificate, has also to be recorded with precision ; and Registrars should aim at absolute accuracy in transcribing Schedule (G) which is the basis of so much that is valuable in Vital Statistics (See Chapter VII. under “Mortality Statistics”).

Column (7) of the Death Entry requires the signature and qualification of the Informant, and his or her residence, if residing out of the house in which the death occurred. The necessary information is obtained by the three questions :—

- (1.) What is your *relationship* to the deceased ?
- (2.) Were you *present* at the death ? and
- (3.) Where do you *reside* ?

It is to be observed that a wife or a husband registering the death of a spouse is described as “Widow,” or “Widower” ; and it is generally advisable that the Registrar should fill in everything save the signature, thus shutting off the chance of mis-spellings, such as—*presant*, *Widowar*, *Neice*, *Ant*, *Sun*, *Dauter*, all of which I have come across sometime in Registers.

The word “Present” should follow the qualification, and address, as shown in Example No. 6 prefixed to the Register

of Deaths—the careful study of which examples will prevent discrepancies and ensure uniformity. Indeed, the golden rule for good Registration—it cannot be too often repeated—is rigid adherence to the sets of examples prefixed to each Register.

Signature by Mark.—Must be attested by the Registrar, or two witnesses (sec. 72).

Burial : Schedule (I).—The Registrar, immediately upon registering a death, or as soon thereafter as he is required to do so, must, without a fee, deliver to the Informant for the use of the Undertaker a certificate in the form of Schedule (I) that the death has been duly registered (sec. 44).

In terms of the Regulations (p. 19), this certificate ought to be handed to the Informant before his departure after the Registers have been signed.

The Undertaker is required, previous to the interment, and under a penalty of £10, to deliver Schedule (I) to the Custodier of the churchyard or cemetery ; or the Superintendent of Interments [or of a Crematorium].

Burial : Schedule (H).—If a dead body is buried without a Schedule (I) being produced, the person in charge of the burial-place must within three days, under a penalty of £1, give notice of the fact to the Registrar of the parish or district in which the death happened, in the form of Schedule (H), (sec. 44).

Forms for this certificate are supplied by the Registrar. Generally, however, the Registrar secures Registration before burial.

Delay.—All deaths should be registered within eight days ; but (unlike births) the Sheriff's authority for recording is not necessary in cases of prolonged delay—not even if a

year or more has elapsed ; but a reference must be made to the entry in the Index of the Death Register of the proper year. Thus, in a case of disappearance—supposed drowning (body not recovered), in June of 1900, not registered until 1901, the name of the person and number of the entry in the 1901 Register should be interpolated in the 1900 Index—where one, knowing the date of death, would naturally first look for a record of the event.

DEATHS IN OR OUT OF A HOUSE.

In the event of failure to give information within eight days, any of the qualified Informants, or any others with a knowledge of the necessary particulars, must, upon being required, attend within fourteen days and register such death (sec. 38).

Over the more populous portions of Scotland this course has to be adopted only very rarely. In Edinburgh, Glasgow, Dundee, and Aberdeen, the most of the deaths are registered before the expiry of the day following their occurrence ; and nearly all, now, are recorded within three days.

Life Assurance in Friendly Societies has had an excellent effect upon the Registration of Deaths ; the provisions requiring the production of an Extract of the Death Entry before payment can be obtained of the sum assured tending very practically to secure prompt Registration.

The practice of not permitting interment without a Schedule (I), unless after satisfactory explanation, aids in accelerating the registering of deaths before the funeral ; and this practice prevails at several leading Cemeteries, obviating the necessity for the use of Schedule (H), the purpose of which is to shut off the possibility of any death escaping registration (sec. 44).

DEATHS NOT IN A HOUSE

Should be intimated to the Registrar within twenty-four hours (sec. 39).

A death not in a house is registered on the information of the Occupier or an Inmate of the house wherein the deceased lived; and when it is not known where he resided, the Registrar sends a notice of the death, immediately, to the Procurator-Fiscal. A footnote to the "Regulations for Registrars" says: "It will be proper for the Registrar to intimate to the Procurator-Fiscal every case of Death attended by violence, or of which the cause is unexplained, even although the residence of the deceased should happen to be known." (Regulations, pp. 18 and 19.)

It is the duty of the Registrar to endeavour, within reasonable limits, to ascertain without delay whether a death from violence is the result of accident or intention, more especially in towns where a Weekly Return is required (See *N.B.*, Appendix No. II., p. 42, of "Regulations").

Deaths while Travelling.—It is usual to allow the relatives to register such at the place of destination or domicile where the body is brought; for examples, deaths in a railway train and on a coasting vessel, have been allowed in certain circumstances by the Registrar-General to be so recorded, although in the latter case the event would be reported to the Customs Officers, and entered by the Captain in his log, and reported to the Registrar-General of Shipping and Seamen. In Col. (2) the place may be entered:—"In a Railway Train on a journey from *London* to *Aberdeen* (Us. res., 3 White Street)." If the Procurator-Fiscal holds an inquiry, the "Result of Precognition" determines the proper place of Registration.

PRECOGNITIONS.

The registration of the death of a person not in a house, and whose residence is unknown, is provided for in terms of

section 39. In such circumstances, the parties specified in the Act must give notice to the Registrar of the Parish or District, who, in like manner, must upon receiving such notice communicate the information to the Procurator-Fiscal.

Frequently, however, it happens that notice of the death is communicated first to the Procurator-Fiscal, whose duty, within three days, it then is to "communicate such particulars as are by this Act required to be registered, so far as within his knowledge, to the Registrar" (sec. 39).

If a formal Precognition is taken by the Fiscal, touching the death of any person, he must inform the Registrar of the parish in which the death appears to have occurred of its "Result" (in the approved form, revised by Crown Counsel). In this case the death may either be registered in the ordinary way, on the information of a relative or other qualified Informant, the Result of Precognition being afterwards inserted in the Register of Corrected Entries ; or the death may be recorded simply and exactly as set forth in the Precognition, the Procurator-Fiscal being entered as Informant (s. 40), without requiring his signature in the Register (Exs. Nos. 9 and 10, Death Register). The more convenient course may be adopted, but the common method is Ex. 10, which, generally, makes the more complete entry. (If Example No. 9 is adopted, the Precognition does not require to be, and should not be, entered in the Register of Corrected Entries.)

In some Precognitions regarding cases of Fatal Accidents where there has been a Verdict of Jury, the details of the place and circumstances of death are somewhat lengthy, so that they can be entered in Column (6) of Death Entry only by writing very small in cramped writing. This may be avoided, however, by recording the Death, in the usual way, in the Death Register upon the information of some person qualified to sign the Register, and thereafter recording the

Result of Precognition in the Register of Corrected Entries. The adoption of Example No. 10 has also the further advantage of allowing Registration to proceed *at once* upon the information of a qualified Informant: there is generally some little delay in receiving the "Result of Precognition."

DEATHS BY DROWNING.

With its long coast line, such cases are somewhat frequent in Scotland. The rule is, that the Result of Precognition determines the place of death for the purpose of Registration (sec. 40). And in a case of drowning, where it is possible to ascertain the exact spot *where the deceased sank*, the practice is to register the death in the parish or district in which that spot is situated. It is, therefore, to the Registrar of that parish or district that the Procurator-Fiscal transmits the Result of Precognition. Generally, it is desirable that the death should be registered on the information of a relative, or other qualified Informant; and the Precognition entered, afterwards, in the Register of Corrected Entries. But if the death has not been registered in the ordinary way, the Registrar may—if that is the more convenient course—record the event from the information in the Result of Precognition, entering himself the name of the Procurator-Fiscal as Informant, without requiring his attendance—as shown in Column (7) of Example No. 9 prefixed to the Register of Deaths.

All cases of drowning should be reported forthwith to the Procurator-Fiscal; and if there is any doubt as to the locality of the death, the registration ought to be delayed until the result of precognition is received by the proper Registrar. Otherwise, it may be necessary that a Registrar should cancel an entry he has made if the Procurator-Fiscal's information is sent to another Registrar. This sometimes happens, and the form of cancellation is as follows:—

Cancelled — the death having been subsequently registered in the Parish of B on the authority of the Procurator-Fiscal. J. S., *Regr.*

The Registrar of A writes the above words on the margin of the entry, authenticates the statement by his initials, and omits the entry from his return, having ascertained that it will be included in return for the other district.

If the Entry is, in the circumstances of a case, allowed to stand, a note to the following effect is sometimes inserted :—

Registered also in the District of Newington on the information of the Procurator-Fiscal Depute.

J. S., *Regr.*

The Case of a Body Cast Ashore should also be reported to the Procurator-Fiscal. It may happen that the death has been registered already in an adjoining parish. Thus, a death by drowning was recorded in Kirkcaldy, with the statement required in Column (6), in such cases, "Body not recovered." The body came ashore at Kinghorn, and the reporting of the case to the Procurator-Fiscal thus obviated objectionable double registration. In that instance, the spot where the man sank was known, as the drowning occurred at a regatta, hence the death was registered without hesitation.

But **Cases of Disappearance**, even where clothes left on bank (perhaps as a "blind"), are not registered as deaths unless and until the Procurator-Fiscal has decided that there has been a death, which is generally made certain in course by the recovery of the body.

Any person present at the death, or finding of the body, and any parish, or public, officer, or any person to whom the body is brought, must give notice to the Registrar of the parish or district in which the body is found, and he must

immediately communicate the notice to the Procurator-Fiscal. If the Fiscal receives the notice from any other person than the Registrar, he must, within three days, communicate the necessary particulars to the Registrar (sec. 39). And—as already indicated—if a precognition is held touching the death of any person the Procurator-Fiscal must inform the Registrar of its result; and the particulars are entered either in the Register of Corrected Entries, or directly in the Death Register (See Exs., Nos. 10 and 9 prefixed thereto).

Occurring under many diverse circumstances, deaths by drowning give some trouble in littoral parishes. They are, as pointed out above, registered in the parish or district off the coast of which they occurred when that is ascertained; when that cannot be determined, in the district in which the body is found or brought ashore. The safest plan, as shown by experience, being when there is any dubiety to defer the registration until the result of precognition has been received; and peculiar cases may necessitate application by the Registrar, in terms of the regulations, for instructions from the Registrar-General.

Deaths in Colonies. — There is no provision in the Registration Acts under which Deaths in the British Colonies can be registered in Scotland. Deaths in the Colonies are registered in the Colony where they occur.

The arrangements respecting the Registration of Births, Deaths, and Marriages in the British Dominions beyond the Seas are governed by various Ordinances of the Colonial Office, and differ somewhat in detail according to the condition of the scattered British Colonies and Possessions of the Crown. Information thereanent may be obtained from the Registrar-General of England.

Deaths Abroad may be registered in the Foreign Register, like Births (sec. 10). Consular Registers are also kept,

now, it is understood, by the various British Consuls abroad, under the Foreign Office, to which Department, or to the Registrar-General in London, inquiries regarding such records should be addressed. It is understood that the Consular Registers are forwarded annually to the Secretary of State for Foreign Affairs for transmission to The Registrar-General of England, Somerset House, London.

Deaths at Sea on board ship, or by drowning from a British vessel, are reported by the master to the Registrar-General of Shipping and Seamen, Custom House, London, from whom certified copies or extracts of such events can be procured for a small fee (sec. 254, 57 & 58 Vict. c. 60), and some "Results of Precognition" regarding Deaths at Sea outwith the three-mile limit are forwarded by the Procurator-Fiscal generally to the Registrar-General of Shipping and Seamen, Custom House, London, where such events are recorded.

Death Registration has, undoubtedly, in recent years, improved much in minuteness of cause and promptitude in recording—partly owing to the regulations regarding Friendly Society Life Assurance. In 1893 a Select Committee reported on the subject of Death Certification, and made certain recommendations, which, however, in view of the careful certification common in Scotland are not, probably, of great practical importance in our country. Aberdeen, for example, has only about 1 per cent. of its deaths uncertified, and it is the best certified town in Scotland, according to the committee's report; Edinburgh and Glasgow show almost equally satisfactory results from special attention to the subject. And there is no subject more deserving of attention and study, for death registration has a threefold value—(1) the protection of life; (2) in the interests of justice; (3) the preparation of reliable and scientific vital statistics,

which give guidance to the central public health authorities, medical officers, and others connected with public welfare, in their successful efforts to ameliorate the health of both city and country. (*Vide infra*, in the Chapter on "Vital Statistics.")

The general reduction of the death-rate, amounting, for instance, in Dundee to an average saving of about 850 lives per annum, has been indirectly brought about largely by the compulsory registration of births and deaths. By means of the particulars procured from a study of the Registers of Births, Marriages, and Deaths, public opinion has been educated, and impressed with the value of human life, and with the advantages of our national system of Vital Registration—the method and forms of which have been herein sketched in all save the more special points to be dealt with in the penultimate chapter of this manual.

CHAPTER IV.

REGISTRATION AUTHORITIES.

ELECTION OF REGISTRAR, FEES, &C.

HAVING sketched the main work of Registration in the preceding three chapters, I now proceed to say briefly something regarding the Election and Remuneration of Registrars, mentioning one or two additional points as to their Duties; with a preliminary word on the principal Registration Authorities.

The Registrar-General.—In terms of the Lord Clerk-Register (Scotland) Act, 42 & 43 Vict. c. 44, sec. 7 (printed in Appendix D), the Deputy-Clerk Register shall, without special appointment or additional salary, hold the office, with all the powers and duties thereto belonging, of Registrar-General of Births, Deaths, and Marriages in Scotland. The “Keeper of the Records of Scotland and Deputy-Clerk Register” is accordingly head of the Registration department in the New Register House, called the “General Registry Office” (sec. 2).

The powers of the Secretary of State for the Home Department in connection with the management and regulation (sec. 6) of the Registration Department were, by the Act 48 & 49 Vict. c. 61, transferred to H.M. Secretary for Scotland.

There being no Superintendent Registrars in Scotland, the Registrars are under the control and superintendence of the SHERIFF of the County (secs. 21 and 76); and the *Sheriff-Clerk* is authorised to assist (1855 Act, sec. 8).

The Registrar-General's Clerical Staff appointed under sec. 3, is divided into three classes employed respectively upon—(1) General Business, (2) Statistics, and (3) Indexing.

The first of these Departments consists of a *Secretary and Chief Clerk* (a conjoined appointment since 1890), two *Seniors* (of whom the present writer was one), and three other Clerks; the second, of the *Superintendent of Statistics* (a Graduate in Medicine), a *Higher Grade Second Division Clerk*, and three others; and *three Clerks* on a lower scale of salary, with a Boy Clerk, form the *Indexing* branch, employed in the preparation of the printed annual General Index of Births, &c., for the whole of Scotland, compiled from the Registers forwarded by the Examiners.

Census.—For the compilation of the Census Tables, a special staff of Clerks is employed temporarily, numbering about twenty-five, with two Superintendents, the whole being supervised by the Superintendent of Statistics, who prepares the various Census Reports under the direction of the Registrar-General.

District Examiners.—Lack of thorough superintendence was at the root of the failure of the voluntary system; and, curiously enough, the compulsory Act of 1854 was found impracticable in its provisions for the Registrars taking their Registers in the first week of August in each year to the Sheriff for comparison (secs. 53 and 54).

Accordingly, the 1855 Act repealed the examination of Registers by the Sheriff and empowered the Registrar-General to divide Scotland into such districts as he may

think fit, and “to appoint for each District a fit and competent person to be the Examiner thereof” (Act 1855, sec. 3).

The Registers are annually collated and corrected (sec. 19, Act 1860) by the Examiners in accordance with regulations made by the Registrar-General, the work at present engaging five District Examiners, who may be described as the Travelling Officers of the Department.

After examining and authenticating the Registers, the Examiners seal and address one set of the books to the Registrar-General. These officers are required to examine also the record of Vaccinations; and to make special and general annual reports to the Registrar-General regarding the administration of the Vaccination Act and the Registration Acts, &c., within the districts they have examined.

Besides correcting clerical errors in the Registers (sec. 19, 1860 Act), the Examiner is required to initial each entry as to Vaccination, and to ascertain that the Registrar complies with the miscellaneous instructions contained in the Registrar-General’s Regulations, especially on such points as the mode of recording Illegitimate Births and the Deaths of Married and Widowed Persons. The Examiner, in short, looks minutely into every item of the Registrar’s records, including the Register of Corrected Entries, with the documents authorising insertions therein; and the work of Examination is, therefore, a prolonged and practical revision of the whole year’s Registration.

Parishes and Districts.—Each of the parishes or districts into which all Scotland is divided has its Registrar. Ordinarily, a Registration District is a parish. But the Sheriff may divide a parish into districts, which is now and then necessary, chiefly owing to increase of population; or

he may unite two or more parishes or portions of parishes into one Registration District (secs. 8 and 10 of 1854 Act, and sec. 5 of 1860 Act).

Unless there are good reasons therefor, the erection of new districts is objectionable; and the Sheriff requires generally to be satisfied that the circumstances call for the formation of a district of fair size (in area or population), before he will make a new Registration District, which always is erected as from the 1st of January, following the date of Interlocutor; and three weeks' public notice is necessary (sec. 10). In proportion to population, there are far more Registrars in Scotland than in England.

Creation of new Registration Districts.—For the circumstances in which it was *held* that, although there had been a considerable increase in the population of a Registration District, it was not expedient in the public interest that the District should be divided, and new Registration Districts created (at that inopportune time), see *Neilson*, Petitioner, Sheriff Court Cases, Vol. VII., p. 20.

Heritors.—In those cases where the Registration District consists of portions of two or more parishes, the Heritors exercise the powers conferred on Parochial Boards and Town Councils (sec. 4, Act 1855). The meeting to elect a Registrar is called by the Registrar or (if there is no Registrar) by the Heritor of lands of the highest valuation therein (*ibid.*).

By the Local Government (Scotland) Act, 1894, secs. 21 and 22, the powers given by the Registration Acts to Parochial Boards are transferred to Parish Councils. In construing the Acts now, accordingly, "Parochial Board" must be taken to mean, as the case may be, Parish Council, Town Council, or Heritors.

Town Council.—Where any parish is situated wholly or in part in a burgh, the powers possessed in landward parishes by the Parochial Board (now Parish Council) devolve on the Town Council (sec. 66). Mixed parishes of this character gave some trouble; but the Sheriffs have simplified the matter by uniting the burghal and landward portions, thus forming one Registration District, and it is understood that after a burghal and landward portion have been united by deliverance of the Sheriff, any of the Local Authorities interested may apply to the Sheriff to determine subsidiary matters arising out of a union in which such Local Authority is interested.

Right of Election in Mixed District.—The case of *Town Council v. Parish Council of Hamilton* is of some importance as showing the questions arising in a Registration District composed of Burghal and Landward portions.

Section 1 of the first amending Act, 18 & 19 Vict. c. 29, passed on 15th June, 1855, provided only for the union of Burghal to Landward—not of Landward to Burghal.

The Burghal portion of Hamilton, accordingly, was united to the Landward by the Sheriff in 1856.

Section 5 of the Second Amending Act, 23 & 24 Vict. c. 85, 6th August, 1860, provided for the union of Landward to Burghal, upon the joint application of the Parochial Board (now the Parish Council) and the Town Council concerned, or upon the application of the Registrar-General.

A vacancy having in 1900 occurred in Hamilton Registrarship, the Town Council asked the Sheriff to dissolve the union and to unite the landward portion to the Burgh (P.L.M. 1900, 642). At the same time the Parish Council petitioned the Sheriff to declare that the Parish Council had the sole power to levy the assessment for registration purposes, and the sole right to appoint a Registrar—*i.e.*, the Parish Council desired to go

upon the union of the Burghal to the Landward effected by the Sheriff in 1856.

The late Registrar of Hamilton was appointed by both the Town Council and the Parochial Board in 1882; and the Town Council levied the Registration assessment for the Burgh.

The Sheriff decided that the levying of the whole Registration assessment should be in the hands of the Parish Council, who should also have the sole right to the election of a Registrar.

REGISTRARS.

(a) **Election.**—The Registrar is elected by the Parish Council in a landward parish; in a burghal parish, by the Town Council. In a parish partly landward and partly burghal, the Act (sec. 66) apparently intended that the Parish Council would appoint a Registrar for the Landward, and the Town Council for the Burghal portion; but under the provisions of section 5 of the 1860 Act, the Sheriff is empowered not only to unite these portions by joining the landward to the burghal (or *vice versâ*), but also to decide all questions as to assessment and the election of Registrars for such united districts. As to the right of appointment in a mixed district,—it was held that the right of appointment of a Registrar to the united Burgh and Parish of Ayr Registration District was to be exercised by the Town Council and Parochial Board alternately (*Ayr Parochial Board, Petitioners, Sheriff Court Reports, Vol. VII., p. 66*).

The letters “B” and “L” are inserted in the outer margins of the Entries in Registers of Mixed Parishes, to differentiate the events occurring in the Burgh from those in the Landward portion (Regulations for Registrars, p. 24, b). And where he is paid by the Parish Council and the Town Council separately, the Registrar appears, from the general practice, to be entitled to charge 2s. each for

the first twenty Burghal Entries, and 2s. each for the first twenty Landward Entries, in the respective half-yearly accounts.

Interim Registrar can be appointed only by the *Sheriff*. The power to appoint an Interim is not given to the Parish or Town Council.

In cases of temporary vacancy through death or otherwise, if it is necessary, the Parish or Town Council sends an application to the Sheriff to appoint as Interim some person, generally named (preferentially the Assistant), and the Sheriff intimates the appointment of the Interim to the Registrar-General (sec. 12). The Assistant, however, can as such carry on the work temporarily without further appointment.

Mode of Ordinary Election. — Within six days after learning that a vacancy has occurred, the Inspector of Poor shall apply to the Sheriff, or the Chairman of the Council, to appoint a meeting to elect a successor (sec. 9).

If the Registrar who has died or gone away was also Inspector, the Chairman has to act in the matter of calling a meeting for the election.

The Registrar shall, in every case, be elected by a majority of votes; and any disputes connected with the election are “settled summarily by the Sheriff on hearing verbally the parties or their agents” (sec. 12). Such appointment shall be intimated, within ten days, to the Registrar-General (*ib.*), and to the Sheriff (sec. 9, 1860 Act).

Name-Plate.—The Registrar’s Name and Designation must be exhibited on his place of business, in accordance with the Official Regulations for Registrars, page 5.

The Schoolmaster is the most suitable person in small parishes, nearly always, for the post of Registrar. Therefore, it is expressly “Provided that if the vacancy be caused by the Death of a Registrar who was a Schoolmaster, it shall

be competent to the Sheriff, or, with the consent of the Sheriff, to the Parochial Board, or Chairman calling the meeting, to postpone the election for any period not exceeding four months, until the election of the successor of such Schoolmaster " (sec. 9).

In regard to voting at the Election, the Registration Act of 1854 provides that the election of a Registrar shall be decided by a majority of the votes of the members of the parochial board present at a meeting specially called for the purpose, and it has been held that it is incompetent to vote by mandates (*Milne v. Archibald*, Sheriff Guthrie's Select Cases, Vol. I., p. 407).

A very special case occurred in recent years of an appointment at the Registrar's instance of an Interim Registrar, where it was held that, through the illness of a Registrar who had no regularly appointed Assistant, the Town Council having delayed to approve of his nominee, a "vacancy" had arisen in the sense of sec. 12 of the Act 17 & 18 Vict. c. 80, and that the appointment of an Interim Registrar was necessary (*Tait*, Petitioner, Sheriff Court Reports, Vol. XIX., p. 345).

In England and in Ireland the Deputy becomes Interim-Registrar when the Registrarship becomes vacant by death or otherwise. There is no exactly similar arrangement in Scotland, but, as a matter of fact, the Assistant-Registrar often carries on the work of Registration in the interregnum between the demise or demission of one Registrar and the election of a successor; as already mentioned, the form of appointment of assistants entitling them to discharge the duties of Registrar "until the appointment of a successor." In such circumstances, they continue to sign as *Assistant Registrars*, if they are not appointed *Interim*.

In England, the Registrar must appoint a Deputy; in

Ireland, the regulation is that the Registrar shall appoint an Assistant; and in Scotland, even in the smallest Registration Districts, the Registrar generally appoints an Assistant, who in country parishes is frequently the Minister.

Assistants.—It is a convenience to all concerned that a Registrar should have some one to act in his absence; and under section 14 it is lawful for every Registrar to appoint a fit person as Assistant. The approbation of the Parish, or Town, Council, or Heritors, or Sheriff, as the case may be, is necessary to the appointment and dismissal. Every entry made by the Assistant should be read over carefully before being initialled by the Registrar, who must also sign each page of the Register, unless unavoidably prevented, when the Assistant's signature is sufficient (sec. 14).

The Registrar, being civilly responsible for his substitute, has the right of his selection. The appointment of Assistant lapses, therefore, with the resignation of the Registrar who appointed; and if his successor wishes to retain the services of the Assistant, a new appointment must be made out, in the form given on page 7 of the Official Regulations for Registrars, where full instructions are set forth regarding the "*Appointment of an Assistant Registrar*," who should not be under sixteen, or a female.

In terms of the statutory Regulations (p. 8), the Registrar "must remember that if through his failure to appoint an assistant, or otherwise, the business of registration should at any time be suspended in his Parish or District, he may, by such neglect, incur the penalty of dismissal."

(b) **Appointment of Registrar is for life.**—A Registrar is appointed *ad vitam aut culpam*. But with the safeguard that "No Registrar shall acquire any vested right in or to his office by virtue of his appointment." In case of fault, a Registrar can be removed from office only by authority of

the Sheriff, on the application of the Parish or Town Council (sec. 15). Or, if the appointing body neglect, or refuse (at the request of the Registrar-General), to apply to the Sheriff for the removal of any incompetent Registrar, it shall be lawful for the Registrar-General himself to apply to the Sheriff for the dismissal of such incompetent Registrar (sec. 2, 1855 Act).

Compensation.—In the only case recently (about 1891), where a district (Monzie, Perth) was merged into (three) others, by Orders of the Boundary Commissioners, no compensation was given to the Registrar on the abolition of his small district. But in some cases where a portion of a district is taken away towards the formation of a new registration district, the Parish Council awards an adequate yearly sum as compensation to the then Registrar of the district so diminished during his tenure of office.

Instances have occurred, within recent years, in Leith, Edinburgh, and other places, where a portion of a parish has been transferred, for the sake generally of greater public convenience, to an adjoining parish or district, or the separated part itself erected into a new Registration District.

The general principle of the public service is understood to be that the emoluments of an appointment shall not be reduced during the holder's tenure of the office. And, while a Registrar has no vested right in his office (sec. 15), alterations of area and reorganisations of Registration Districts have been carried through—for examples, in Edinburgh and in Glasgow—in apparently a fairly equitable manner, with due regard to the previous emoluments of efficient Registrars.

(c) **Duties.**—The Registrar's duties are, strictly, ministerial; he is not *required* to investigate the correctness of the information offered. But he may warn the Informant

of the serious consequences of wilfully giving false information (secs. 60 and 62).

In the Marriage Law of Scotland there are peculiarities which give rise occasionally to apparently anomalous entries. It is, however, obviously impossible for Registrars to institute investigations as to the nature and legal effects of the marital connexions which may happen to subsist between parties who wish, for example, to register a child as their legitimate offspring, although their union is unrecorded, or its validity dubious.

The Registrar takes down the particulars as he gets them. The Informant is held responsible for the accuracy of the information he gives (sec. 62). Cases of unregistered marriage are now, it appears, extremely rare. Provision exists for the registration of all regular, and three classes of irregular, marriages, specified in the chapter on that subject. But the Registrar cannot withhold from the children of parents who may have contracted a marriage, say, by "habit and repute," their status of legitimacy. After giving due warning in cases where it seems necessary, the only safe general rule seems to be for the Registrar to act on the information received. The "Regulations for Registrars," made under section 6, cover most cases. But exceptional instances are referred to The Registrar-General as they occur; hypothetical cases not being considered, but only real cases, which should be fully and definitely detailed, as indicated in the Circular (D) sent to Registrars on appointment and in the Regulations (page 15, letter c).

Immediately upon his entering on office, the Registrar must make himself acquainted with the provisions of the Registration Acts, of which he is required to supply himself with a copy; and he must "learn and register as soon as possible all the required particulars" of vital events in his registration district (sec. 26). The "Means of obtaining Information" are pointed out in the Regulations for Registrars (page 8).

The Registrar must dwell, or have his office, within his

district ; and must have his name and designation displayed outside his place of business. Change of address must be intimated to the Registrar-General and the Sheriff of the County (sec. 25).

All the Registers, Documents, Official Circulars, and the like, detailed in the Registrar's "Inventory," should be received from the previous holder of the office or his representatives (sec. 24).

The Registrar is supplied with an "Order Book," enabling him to requisition from the General Registry Office such printed forms as he requires from time to time (sec. 23) except extract forms for the year 1855, which have to be procured, specially, direct from H.M. printers.

On 31st December, the Registers for each year are closed. On the 1st January the Registrar begins his new Books, which are forwarded to him about November. If the Registers for any year are found insufficient, the two books of Births, Deaths, or Marriages are sent to The Registrar-General to be supplemented ; but, generally, the Examiner is able to obviate the necessity for supplementation by considering the circumstances of each district at his annual visit, and directing, where necessary, that the size of the Registers be augmented, or diminished.

Care of Registers.—All Registers are kept in duplicate ; save the Vaccination record in the local Birth Register, the contents of each being precisely the same. Every page used must be signed (see page 108 *supra*) by the Registrar (sec. 53). One copy remains in the district, the other being transmitted to Edinburgh, after examination (sec. 3, Act 1855).

Except during time of use, the Registers must be kept in locked register box, or fire-proof safe (secs. 22, 23, and sec. 28 of 1860 Act). One key of safe must be deposited with the Sheriff-Clerk. (*Vide* Official Regulations as to "Register Box," page 6.)

If a duplicate register is lost, destroyed, or mutilated, or has become illegible in whole or in part, the fact must be communicated immediately to The Registrar-General, and the mutilated or illegible book transmitted to him. In terms of section 55, The Registrar-General must then present a petition to the Court of Session, setting forth the facts. The Court, on being satisfied regarding the same, shall order such register to be put right or a new duplicate made at the sight of the Registrar-General, the corrected or new volume having the same validity as the original duplicate (*Dundas*, 1875, 3 R. 273; *Stair Agnew*, Petr., 1890, 28 S.L.R. 164).

Production of Registers.—If a Registrar has been cited to produce a Register in any Court, he must intimate the fact to the Registrar-General (Regulations, p. 6). A Registrar is bound to obey a subpoena to attend in the Probate and Divorce Division of the High Court of Justice in England, and, if so cited, to produce Register.

An Act of Sederunt of the Court of Session, dated 16th July, 1859, regulates the production in evidence of registers in the custody of the Registrar-General, illustrated by a recent decision of the First Division in a petition by the King's and Lord Treasurer's Remembrancer, granting warrant to allow the conveyance of a Marriage Register, in this case the Marriage Schedule, to *London* for production in a case of Bigamy (*King's Remembrancer*, 1902, 4 F. 559).

The Lord President on that occasion said he had felt great difficulty in this question because he recollected more than once having heard the late Lord President Inglis express views, which had been already referred to, against sending any part of their registers out of the country. Lord Adam's view also on the subject was of great authority and weight. If this had been a private individual who made the applica-

tion, these difficulties to his Lordship's mind would have been almost unsurmountable. But when Mr. Blackburn, who represented such a Department as the Treasury, had been enabled to give them such assurances as he had given, and when he felt that his authority enabled him to give the further assurance which they asked, his Lordship thought they ought to grant the prayer of the petition, although his Lordship should not like it to be understood that it was as a matter of course. The Court (Lord Adam dissenting) granted the authority craved, the interlocutor bearing that the volume, after it had served its purpose in London, was to be "forthwith restored to the custody of The Registrar-General." Counsel gave assurances on behalf of the Treasury that the Register would not be impounded or retained in London; and the warrant on The Registrar-General allowed the conveyance to London of The Gorbals Register of Marriages for 1875 (the Marriage Schedules) to the Central Criminal Court, London, for the purpose of proving the signature of Francis Marley, who was married on 27th December, 1875, to Rose Docherty, and who was charged with bigamy.

Lord Adam said he could not concur in the view that any of the records of the country should go beyond the jurisdiction of the Court, and that the late Lord President Inglis held the same view.

A photograph of an Entry is sometimes taken, or a *fac-simile* of a signature, in lieu of production of the actual Register or document. And the following is the Act of Sederunt relative to the production of Registers in the custody of The Registrar-General for Scotland:—

ACT OF SEDERUNT AS TO PRODUCTION OF REGISTERS UNDER
THE CUSTODY OF THE REGISTRAR-GENERAL.

EDINBURGH, 16th July, 1859.

The Lords of Council and Session, considering that it is sometimes necessary, for the ends of justice, that Original Registers in the Custody

of the Registrar-General shall be produced in evidence, but that it is necessary, for the safety of such Registers, that parties shall not be at liberty to recover them under diligence, or to borrow them on receipt, or obtain them to be produced, except under certain regulations, Do hereby ENACT :—

That no party or parties to any Action shall be entitled, in virtue of a diligence or otherways, to obtain from the Registrar-General production of the Originals of any of the Registers placed under his Custody by the 17th and 18th Vict. cap. 80, except under the authority of the Court of Session, applied for and obtained in the following manner :—

1. All applications for such purpose shall, during Session, be made to the Court in the usual way, and shall, during Vacation, be made to the Judge or Lord Ordinary, by motion, in the way and manner set forth in the 21st section of the Act of Sederunt of 16th February, 1841, and in either case due notice of the application shall be given to the Registrar-General.

2. If it shall appear to the Court, or to the Judge or Lord Ordinary, that it is necessary, for the ends of justice, that such application should be granted, authority shall be given for the production, and the Registers, to be produced in virtue of such authority, shall be exhibited to the Court or to the Jury before which the cause is tried, under the custody of an Officer to be selected by the Registrar-General, by whom they shall be restored to the custody of the Registrar-General, when the purposes for which they have been so exhibited shall have been answered.

3. The expense attending the transmission and exhibition of such Registers shall be defrayed, in the first instance, by the party or parties on whose application the proceeding takes place.

And the Lords APPOINT this Act to be engrossed in the Books of Sederunt, and printed and published in the usual manner.

DUN. M'NEILL, *I.P.D.*

Registrars' Indexes.—The Registers for each year are closed for Registration on 31st December; and an Index must be prepared *forthwith* and inserted in each book (sec. 56). The Index should be compiled accurately and copied carefully into the Registers without delay.

Searches.—The public are entitled to search the local Indexes at all reasonable hours, subject to such regulations

as the Sheriff may prescribe (sec. 56). Searching, however, must be done only in the presence of the Registrar (Regulations, p. 27). The particular entry required has to be mentioned in a *particular* search, fee 1s., but not in a *general* search, fee 2s. A particular search is a search for a single entry; a general search, one for a general purpose, such as the tracing of a pedigree.

Hours.—Although Parish and Town Council appoint them, Registrars are under the control and superintendence of the Sheriffs (sec. 21), which term includes Sheriffs-Substitute (sec. 76). And if a Registrar has a difficulty in the matter of hours of business for Registration, &c., he should consult the Sheriff of the County (Regulations, p. 23). “Every person shall be entitled at all reasonable hours to search the said Indexes” (sec. 56), is a provision which is acted upon in a business-like and common-sense interpretation.

Errors.—An entry may be corrected before signing under the provisions of section 64. Erasing is emphatically and repeatedly forbidden; the Registrar “must in no case make any erasure” (Regulations, p. 25).

To make a correction under section 64, the erroneous word or words, figure or figures, should be neatly deleted by drawing a single line through what is wrong; writing what is correct above or below, or on same line, according to space available; and numbering and initialling by the Registrar, as shown on page 53 of the Regulations. The Examiner corrects clerical errors discovered at the annual examination (sec. 19 of 1860 Act); and the forms headed “Questions to be answered by the Informant” must be preserved carefully until the Registers are collated by Examiner.

Except the insertion of the contents of Medical Certificates where the relative certificates are received after registration of the deaths, no alteration can be made upon an Entry

after it has been signed by the Registrar, without the interposition of the Examiner; or of the Sheriff in accordance with the provisions of section 63 for the correcting of erroneous Entries. Examples of the form of Petition to the Sheriff in such cases are given at the end of Chapter VI.; but if the Registrar has any difficulty he should consult the Sheriff-Clerk.

REGISTER OF CORRECTED ENTRIES.

Authority.—The Warrant of the Sheriff, an Extract of a Marriage in the case of Legitimation, a Schedule (D), (E), or (F), a Result of Precognition; or a Circular from the Registrar-General regarding a case of Bigamy, or Divorce; or a Declarator of Legitimacy or Illegitimacy (sec. 5, 1855 Act) are the ordinary documents authorising insertions in this Register. (*Vide* the various Forms which are printed in the latter portion of “Special Points,” Chapter VI. *infra*.)

Form.—A new Registrar should study the printed examples prefixed to the Register rather than seek guidance generally from insertions by predecessors, who may have inadvertently departed somewhat from the prescribed forms. The Register is kept in duplicate (sec. 6 of 1860 Act). An entire page (or leaf) of the Register must be assigned to each case of correction, which, if necessary, may extend to the back of the leaf. Additions and alterations are given effect to as shown in examples Nos. 1 to 8 prefixed to the Register; and five examples are exhibited of various corrections, but these latter are not at all common in the experience of the careful Registrar. No alteration is made upon the original Entry in the Register. It remains the same; having, however, on its margin a distinct reference to the relative insertion.

Reference.—In every case the Registrar must at once make the prescribed reference in the appropriate compartment

in the margin of the Entry affected. And in cases where the duplicate has been forwarded to the General Registry Office, the Registrar should, *without delay*, send to the Registrar-General a copy on plain paper of the correction as appearing in the Register of Corrected Entries, and of the relative marking made on the margin, in order that the reference may be inserted immediately in the Register at Edinburgh, and the plain paper copy retained for use, pending the arrival of the outer half of the original insertion after the annual examination. This requirement is laid down twice in the Regulations, at pp. 16 letters *c-d*, and 26 letter *f*. Yet not a few Registrars fail to comply promptly with the instruction to send a certified copy at once. And in more than one instance this failure or delay has laid a Registrar open to severe animadversion, where an Extract of the Entry affected was asked from the General Registry Office before receipt from the Registrar of the required plain paper copy and relative marginal reference.

A *new volume* of the Register must be obtained before the old one is exhausted, by application to the Registrar-General, mentioning the number of the present volume, in order that a fresh volume with the following number (say Vol. III.) may be prepared. On completion of the old volume, when the Examiner has transmitted all its outer half to the Head Office, the boards may be cut down similarly by one half, reducing the book to a size convenient for its necessary permanent preservation as a part of the other Registers and its custody in the Register Box or Fire Proof Safe, from which, like the other Registers, it should be taken only when in use, and replaced as soon as possible (Regulations, page 6, letter *f*).

(*d*) **Remuneration of Registrar.** — Registrars are re-

munerated by either Fees or Salary. If by Salary, the amount is fixed by the Council, with the approbation of the Registrar-General (or the Sheriff), in terms of section 51.

An *assessment* is levied for the purpose—in burghal parishes by the Town Council; in districts consisting of parts of parishes by the heritors; in the landward parishes by the Parish Council; and in parishes partly landward, partly burghal, as the Sheriff may have determined. The assessment is levied along with, but must be kept separate from, that for the relief of the poor (and the sum required cannot be taken from the funds raised for poor relief). The salary is also partly paid out of the fees received by the Registrar, who accounts for the same to the Council (sec. 51).

The Registrar must make out, half-yearly, an account of the number of Births, Deaths, and Marriages, registered in his District (and Postage of Letters and the like connected with the work of Registration). Such account is rendered to the Council, who levy an assessment to cover its payment, and for such further remuneration as may be necessary. The following is the scale of *fees payable to the Registrar*:—

For the first twenty Entries of Births, Deaths, and Marriages, in each half-year, two shillings each, and one shilling for each subsequent entry; with “such further sum as the Council shall think fit” (sec. 50).

If the Registrar is dissatisfied with his remuneration, he may so represent to the Registrar-General, who may require the Council to increase it, under the provisions of section 18 of the 1860 Act. Such representations were not uncommon in the early days of Registration. And they were generally acted upon by the Registrar-General in the cases of small parishes where the statutory fees for Entries did not amount to £5 *per annum*. They are, however, now practically in desuetude, the Registrars not being forbidden to make

tactful approaches, as opportunity arises, direct to the Council concerned, basing the application, generally, on the increase of population and the consequent augmentation of the number of entries and other work. The approval of salary is conditional, in case a change of circumstances should render expedient a corresponding alteration in the amount fixed. Although the assessment is levied yearly, there is no objection to the Registrar being paid quarterly, or monthly. The intention of the Registration Act seems to be, however, that the Registrar should be paid half-yearly (sec. 50).

RECAPITULATION OF REGISTRAR'S FEES.

I.—PAYABLE BY THE PUBLIC.

	S.	D.
1. Extract of Entry (including penny stamp duty) (sec. 56),*	2	1
2. Search for a particular Entry in any Register (<i>ibid.</i>),*	1	0
* The Fee for an Extract not ordered at time of registration is 3s. 1d.		
3. "General" Search in the Registers (<i>ibid.</i>),	2	0
4. Registration of Birth, with authority of the Sheriff, after three months from date of birth (sec. 31),	2	0
5. Recording of Baptismal Name, Schedule (D) (sec. 32),	1	0
6. Recording of Name given without baptism, Schedule (E) (sec. 33),	1	0
7. Recording of Name by Schedule (D) or (E), <i>after six months</i> from registration of Birth, <i>for which Sheriff's authority is required</i> (secs. 32 and 33),	1	0

8. Attendance with Registers at a Marriage when so requested (sec. 47),	s.	D.
	20	0
And 6d. for each mile traversed necessarily "in going from his place of abode to the place of such marriage."		
9. Registration of an Irregular Marriage estab- lished by Conviction or a Marriage established by Decree of Declarator (sec. 48),	20	0
10. Certified Copy (Extract) of Entry of an Irregular Marriage registered on Warrant of the Sheriff, section 2, 19 & 20 Vict. c. 96 (including 1d. stamp),	5	1
11. Notice of Marriage under Marriage Notice Act,	1	6
12. Certificate of Publication of Notice of Marriage,	1	0
13. For inspection of Marriage Notice Book,	1	0
14. For Search in Vaccination Register,	1	0
15. Extract of Entry in Vaccination Register (and 1d. stamp duty),	0	7
16. Extract ordered at the time of the Registration of the Birth, Death, or Marriage (except Irregular Marriage),	2	1
17. Ordinary Extract ordered at any time (except at registration) including 1d. stamp,	3	1
If two or more Extracts of the same Entry are required together, the fee for each, after the first, is 2s. 1d., there being in such cases only one search fee (1s.) exigible.		
18. Certificate of Birth, Death, or Marriage, under the Post Office Savings Banks, 50 & 51 Vict. c. 40, sec. 10, or Trustee Savings Banks Acts,	1	0

Forms of Application to the Registrar for this
Certificate are furnished to applicants by the re-

spective Savings Banks, and must be brought to the Registrar by the parties requiring Extracts. s. D.

19. Extract under the hand of the Registrar of an Entry of Birth for the purposes of The Factory and Workshop Act, 1901, or for any purpose connected with the employment in labour or elementary education of a Child or Young Person under the age of sixteen years, 0 6
(Registrars furnish *gratis* printed forms to Applicants for Factory Extracts.)

Friendly Society Extracts.

20. For Certificate of Birth or Death, on approved Form, of any Member of or person insured with a *Registered* Friendly Society, . . . 1 0
21. Certificate of Death, on approved Form, of any child *under ten years of age* insured, or on whose Death any money is payable, under the Trade Union Act Amendment Act, 1876 (39 & 40 Vict. c. 22), . . . 1 0

If two or more Certificates of the same Death are required *at one time* (by the same person), the fee for each, after the first, is sixpence.

If the Registrar has to fill up the form of Application for Certificate, he may charge 3d. for so doing.

II.—SPECIAL CASES.

Chemists.

- Certificate of Death of a Pharmaceutical Chemist, or Chemist and Druggist, sec. 11, 31 & 32 Vict. c. 121, . . . 2 0
Exempt from Stamp Duty.

The fee and postage is payable by the official s. D.
to whom the Extract is required to be forwarded,
viz. :—The Registrar of the Pharmaceutical Society,
17 Bloomsbury Square, London, W.C.

Veterinary Surgeons.

Certificate of Death of a Veterinary Surgeon,
sec. 10, 44 & 45 Vict. c. 62, 2 0

Chargeable similarly to The Registrar of the
Royal College of Veterinary Surgeons, 10 Red
Lion Square, London, W.C.

Exempt from Stamp Duty.

Pensioners.

(See also under chapter on DEATHS.)

Extract of Death of *Army* Pensioner, 2 1

Payable by The Under-Secretary of State for
War, Pall Mall, London, S.W.

With reimbursement of 1s. paid by Registrar to
informant or other person for the Pensioner's *Certi-
ficate of Identity*, which should be forwarded with
the Extract of Death to the War Office, or, if a
Naval Pensioner, to the Admiralty, or if the Deceased
was a Metropolitan Police Pensioner, to New Scotland
Yard, as the case may be. This instruction applies
to all Pensioners whose Identity Certificates have to
be paid for and forwarded.

Extract of Death of *Naval* Pensioner, 2 1

To be received from the Accountant-General of
the Navy, Whitehall, London, S.W., in return for
Extracts, which, in cases of all Pensioners, is to be
forwarded immediately on registration to the proper
headquarters in London.

No postage is required.

Extract of Death of London "Metropolitan Police"	s.	D.
Pensioners,	2	1

These Pensioners are of three classes, detailed in the pamphlet "Instructions regarding Special Death Certificates required to be despatched immediately after Registration." The Extracts are sent to The Receiver of Police, New Scotland Yard, London, S.W., by whom the amount due is remitted to the Registrar.

Extracts of Death of "Militia-men,"	2	1
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These are now dealt with in the same way as Army Pensioners, in terms of the Registrar-General's Circular of 23rd September, 1901.

Certificates of Deaths of Wives and Children of Soldiers serving in South Africa, and of Wives and Children of Men who have died through War Service,	2	1
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These Extracts have to be forwarded to the War Office, with a memorandum on the back, in which, if possible, should be given the Soldier's Regimental Number.

III.—PAYABLE BY PARISH COUNCIL, TOWN COUNCIL, OR HERITORS.

1. For first Twenty Entries in Registers in each
half-year (sec. 50), each 2 0
2. For each subsequent Entry (sec. 50), . . . each 1 0
(Or by Salary in lieu of Fees, sec. 51.)
3. For Entry of Vaccination (sec. 16, Vaccination
Act), each 0 3
4. The expense attending the postage or carriage
of all letters or packets, and all other neces-
sary disbursements, relating exclusively to

the execution of his office (sec. 17, 1860 Act), such as expense of putting up name-plate, repair of Register Box, or purchase of Registration Acts, and the like. S. D.

5. The necessary expenses incurred in the correction of an error, under the provisions of the 63rd section of 17 & 18 Vict. c. 80, "where such expenses are not paid by the party through whose fault such error was committed, and where such error was not committed by the Registrar's own carelessness" (sec. 17, 1860 Act).

6. The cost of any Search or Extract required "by or on behalf of a pauper" (*ibid.*). The Parish Council ordering an Extract and Search should pay for the same; and that is the general practice.

(See Chapter VI. under "Pauper Extracts.")

7. Certificates of Deaths of Medical Practitioners.

In each case of the death of a registered Medical Practitioner an Extract has to be forwarded to both London and Edinburgh, viz. :—to (1) The Registrar of the General Medical Council, 299 Oxford Street, London, W., and (2), The Registrar of the Branch Medical Council, 54 George Square, Edinburgh, each

2 0

(These Extracts are exempted from Stamp Duty by 23 & 24 Vict. c. 111.) Sections 34 and 35 of the Act 21 & 22 Vict. c. 90.

8. Certificates of Deaths of Dentists, transmitted to The Registrar of the General Medical Council, London, each

2 0

Section 36, 41 & 42 Vict. c. 33.

9. Expenses of Sheriff's Warrant for compelling attendance to Register.

10. Any other items, such as allowances for Corrected Entries and the like. For examples :— Plain paper copies of Corrected Entries, and Transcripts of Births dispatched, are each chargeable 1s. in Glasgow, where also Vaccination Notices and Certificates of "Died before Vaccination" are included in Registrar's accounts at the rate of 6d. each.

Under the Public Health Acts, Medical Officers require certain returns from Registrars, the remuneration for which is now statutory for the most part.

Sect. 15 of the Public Health (Scotland) Act, 1897, enacts that :—

"The Registrar of births, deaths, and marriages in each registration district shall furnish to the Local Authority such periodical returns of births and deaths as may be required of him by the Board, and for each death included in such return, and for each return of births, he shall be paid by the Local Authority the sum of twopence, and the Local Authority shall provide the forms on which such returns are to be made, and shall pay for their transmission by letter post."

On pain of dismissal, the Registrar must not exact anything over the regulation fees as a condition of the discharge of any of his duties (Regulations, p. 31).

The Parish Council is authorised as afore-mentioned by section 50 to add "such further sum as may be necessary for the Registrar's remuneration." And Mr. Seton was distinctly of opinion that, as a general rule, the mere

statutory fees (sec. 50) do not form sufficient remuneration for the various duties imposed upon the Registrar, which are of a more onerous and intricate nature than those devolving upon the Registrar in England. "Where the Registrar has to requite the services of an assistant his remuneration," says Mr. Seton, "ought to be proportionally increased" (Analysis, p. 24).

War Office Communications.—Very noticeable is the increase in the Circulars regarding various classes of Pensioners of the War Office. In the case of adult persons, especially those who die in an Infirmary, Poor House, or other similar Institution, the Registrar has almost invariably to inquire, in accordance with instructions, whether the deceased was in receipt at time of death of a War Office (or other) pension. The Registration department has been utilised in recent years a good deal by the War Office. It may be mentioned that the present writer, acting under the direction of the Registrar-General, investigated, some years ago, the accuracy of the ages of many thousand soldiers, initialling the statements made, for the War Office, to enable the men to secure the clear shilling a-day.

EXTRACTS.

Signed by the Registrar-General or by the district Registrar, certified copies, technically termed "Extracts," of Entries are admissible as evidence in all parts of His Majesty's Dominions, without any further proof of the Entry (sec. 58).

In making out an Extract of an Entry corrected with authority of the Sheriff (sec. 63), or altered by a Schedule (D) or (E) and the like, the Registrar must copy out the Entry as corrected, disregarding the erroneous or altered

part. But in the case of an Entry affected by a Schedule (F) or the recording of Legitimation, the original Entry must be copied out exactly as originally made, and the relative insertion in the Register of Corrected Entries transcribed in full upon the back of the Extract.

This distinction may be remembered by bearing in mind that the first are simply corrections of *fact*, and that the second involve alterations of legal *status*. The number and the heading of the Entry must appear on every Extract. Forms for Extracts for years 1856 and onwards are obtained from the General Registry Office by means of the Registrar's Order Book.

EXTRACTS UNDER THE EDUCATION ACTS, AND THE FACTORY ACT, 1901,

Applied for from Registrars upon the proper form, as already stated, such Extracts cost 6d. When the Certificate is required for an educational purpose, the child must be aged between five and sixteen years; and in the case of Extracts for Factory employment it is held that the young person should be of an age fitting for such work. When the entry of birth cannot be found, the Registrar may, if the application is postal, deduct 1d. for return postage.

CERTIFICATE OF POVERTY.

Edinburgh,

19 .

I hereby certify that _____ presently residing
at _____ is in poor circumstances, and unable to pay
the fee for a Search or an Extract authorised by the 18th
and 57th Sections of the Act 17 & 18 Vict. c. 80.

(*Signature,*)

(*Designation,*)

To be Signed by a Minister, Elder, or Justice of Peace.

FRIENDLY SOCIETY EXTRACTS.

No Registered Society, or Branch, shall pay any sum of money upon the death of a member, or other person, except upon the production of a Certificate of that Death under the hand of the Registrar, in terms of sec. 61 (1), 59 & 60 Vict. c. 25. (*Vide* relative Regulations as to exceptions, such as Deaths at sea.)

All Registered Societies, whether they be Friendly Societies, Benevolent Societies, Working Men's Clubs, or Specially Authorised Societies, come under the above enactment, as also Industrial Assurance Companies and Trade Unions. And by Section 97 (1) of the same Act, a Certificate of the Birth or Death of any member of, or person to be insured with, a Registered Friendly Society shall, on application as provided, be given for the reduced fee of one shilling, upon a special Form; which Certificate is exempt from stamp duty.

In addition to the Form (No. 4) of Application for a Birth Extract, the Forms for Friendly Societies Extracts are three in number:—

No. 1. Applicable to the Deaths of Persons aged 10 years, and upwards;

No. 2. For Children between 5 and 10; and,

No. 3. For Children under 5.

The maximum payable upon the Death of a child under 5 is £6; between 5 and 10, the limit is £10 (Forms Nos. 2 and 3): the sum has to be stated in the Application and Extract. Registrars are forbidden to issue Extracts, on Forms Nos. 2 and 3, for payments on Death of Children, for sums exceeding in the whole £10 and £6 respectively. "All Certificates of the same Death shall be numbered in consecutive order" (sec. 64 (3), 59 & 60 Vict. c. 25). And the Societies are required to see that not more than the

authorised sums are paid (sec. 66, *ibid.*). Most of these Extracts are issued on Forms Nos. 1 and 3: and the necessity for issuing such Extracts has helped considerably to further alike prompt Registration and satisfactory Death Certification (sec. 65 (2), *ibid.*).

It is to be noted that the issuing of a Certificate under the Friendly Societies Act, in the case of a person insured in a non-registered society, might, in certain circumstances, expose the Registrar to a £50 fine for contravention of the Stamp Act. But, upon the other hand, the Registrar may be held to be freed from responsibility by the terms of the application: "I demand for the purposes of above-mentioned Act."

In terms of the Registrar-General's special instructions to Registrars on the subject, whenever a Registrar has any reasonable doubt whether any particular society is a Friendly Society or a Benevolent Society, or whether it is "Registered" or not, he may apply for information to

"The Registrar of Friendly Societies,"

3A Howe Street, Edinburgh,

to whom also, in terms of a Circular of 12th June, 1877 (re-issued October, 1898), all doubtful points of procedure arising under the operation of the Friendly Societies Act ought to be referred.

The Instructions given on the covers of the four different books of Forms should be read carefully for practical guidance, as well as the Registrar-General's pamphlet of 1st October, 1898, which lays down in detail the law connected with the issuing of such Certificates.

A List of Friendly Societies is printed at the end of Chapter VI.

GENERAL REGISTRY OFFICE, EDINBURGH.

Old Parochial Registers.—In "The Dome" are arranged all the Registers now in the custody of the Registrar-General.

These records include all the existing "Old Parochial Registers" for the various parishes dated down to 1854 from various early beginnings. The Registers of Perth begin in 1561; Dunfermline, 1561; Edinburgh, 1595; St. Cuthbert's, 1573; Canongate, 1564; Inverness, 1604; Banff, 1620; Glasgow, 1609; Elgin, 1609; Gorbals, 1771; Govan, 1690; Dundee, 1645; Hamilton, 1645; Stirling, 1587; Arbroath, 1563; Inveraray, 1563; Paisley, 1788; Ayr, 1664; Aberdeen, 1563; and Old Machar (Aberdeen), 1641. These Registers are not generally very regular or complete—especially in deaths. For example, the Aberdeen Record has only four entries of burials prior to 1573, and one of the four is a purely historical note relating to the murder of Henry Lord Darnley.

Extracts of Entries are given *verbatim et literatim* from the Old Parochial Registers. "Tracing" is not allowed generally, but a photograph may be permitted.

Fees.—For every extract of an Entry 2s., search 1s., stamp duty 1d. (3s. 1d.). For every general search of Registers in the General Registry Office, 20s. Particular search, for a stated Entry, 1s. A general search may, if necessary, extend over a few (at present not more than ten) successive days; and the precise object need not be stated.

New Registers (1855 and onwards).—Any person shall be entitled to search the tabular alphabetical Indexes of the Duplicate Registers in the custody of The Registrar-General, Edinburgh, and to have an Extract of any Entry, on payment of the above statutory fees (sec. 57).

Remission of Fees.—The Registrar-General may permit *gratis* searches, &c. This is done in cases where he is satisfied that the person is unable to pay owing to poverty. It is also allowed in cases of genuine literary research in connection with a work to be published. Forms of

application under these heads of poverty and publication are supplied at the General Registry Office (sec. 57).

Postal Applications for Extracts.—Over £750 per annum is received at the General Register House as Fees for Searches and Extracts. A considerable portion of that sum comes by post. While it is quite incompatible with their ordinary duties for any of the officials to undertake a *general* search in compliance with a written application, a particular search is made on behalf of correspondents who send sufficient information regarding names, parentage, dates, and locality, to secure identification of the Entry of which an Extract is desired. More particularly must the facts be fully stated—especially the place—if the event is dated earlier than 1855.

The General Index for each year made up from 1855 onwards facilitates the finding of entries in the New Registers. That valuable work of reference is divided into an Index of Births, Deaths, and Marriages, with the sexes separated, on a system which renders it easy to find an Entry if the information is not extremely defective. The volumes are now printed (from 1866). They contain the Surname, Christian Name, Parish or District, and Number of the Entry, regarding every Birth, Death, and Marriage in Scotland from 1855 inclusive to the last completed year of the Index, the work of preparing which goes on steadily as the Registers arrive from each District. By the aid of the General Index, it is possible to find very readily any entry desiderated.

All the Fees received by the Registrar-General for Searches and Extracts in the Old and the New Registers are accounted for to H.M. Exchequer (sec. 59). There is a constant attendance of the public or their agents making Searches in the General Registry Office between ten and four daily (Saturday ten to one), and taking pencil notes of Entries, or ordering Extracts (sec. 57).

MISCELLANEOUS.

PENALTIES AND NOTICES.

ALTHOUGH the penalties were put in outstanding capital letters in the Public Notice to Informants drawing attention to the change of system, the Department has pursued, as far as possible, the policy of carrying out the Acts without recourse to the penal clauses ; and the Registrar-General's Official Notice mentioned that "Where several parties are required by the Act to give any notice, it will be sufficient, to prevent liability for Penalties, if one of them shall give the notice required, and such notice may competently be sent by post, if within the time prescribed by the Act" (secs. 60 and 61).

No Penalty incurred by failure to give notice shall be exacted where it shall appear, to the satisfaction of the Sheriff, that the party implicated has not been guilty of such failure wilfully (sec. 73).

As a matter of fact, very few notices of events are given, Informants generally attending at once to register. The form of notice is useful, however, in such cases as those of delay in registering a birth caused by the illness of the mother of an illegitimate child. Of course, notice does not do away with the necessity for personal attendance to register.

OFFICE ACCOMMODATION AND SAFES.

It is lawful for the Parish Council, Heritors, or Town Council of any Parish, District, or Burgh, where they shall consider it expedient to include under the Registration Assessment such sums as may be required for the provision and maintenance of a suitable office for the use of the Registrar, within his district. And the cost of Fire-Proof Safes is to be provided for similarly in terms of the same

section—8 of the 1860 Act. In small Districts the expense of purchasing a Safe is sometimes spread over several years, to avoid a considerable increase in the annual Registration Assessment.

Offices are provided in the large towns, Edinburgh, Glasgow, Dundee, and others; but in Aberdeen the two Registrars are required at present to pay rent, although it seems to be considered generally desirable that suitable permanent offices should be supplied by municipalities for the carrying on of duties so generally important as those of Registrars in large cities.

REGISTRAR'S QUARTERLY RETURNS.

Every Registrar is required to forward, on form supplied, a Return at the end of each Quarter—31st March, 30th June, 30th September, 31st December—of the Births, &c., distinguishing Males from Females, and Legitimate and Illegitimate, *excluding transcripts* (under sec. 26); it is necessary to emphasise this exclusion because a Registrar may overlook the fact that such Births are included already in the Return from the actual district wherein the child was born.

In the Column left for observations, the Registrar mentions anything affecting the death-rate, &c., such as the sanitary condition, variations in temperature and weather, and special movements of the people, that may explain something abnormal in the numbers of the Births, Deaths, and Marriages, registered during the Quarter just completed.

Special returns as to Epidemics may be required by the Registrar-General (Regulations, p. 35). And the Registrars of eight of the principal towns send Weekly Returns every Saturday.

Returns are furnished also to Sanitary Authorities, as arranged.

REGISTRAR-GENERAL'S REPORTS (Sec. 7).

The Statistical Reports issued from the Registrar-General's Office consist chiefly of—

(1.) **Weekly Report**, applicable to eight principal towns.

(2.) **Monthly Report**, applicable to the same, and also to some forty selected Registration Districts.

(3.) **Quarterly Report**, applicable to every Parish in Scotland, as is also the

(4.) **Annual Report**, issued generally in the quarter following the expiry of the year to which it relates. This Report contains statistics of *Vaccinations* for the year anterior to that to which the Report otherwise applies.

Meteorological Observations also appear in the Registrar-General's Reports.

The above Reports are based upon the Returns received from the Registrars, and are sold by Messrs. Oliver & Boyd, Edinburgh. There is also published an Annual "Supplement."

From the Registers themselves (as forwarded by the Examiners in course of the year following that to which they relate) is prepared—

(5.) The **Detailed Annual Report**.—That important publication contains a commentary upon, and a thorough analysis of, the Vital Statistics of Scotland; giving very full and valuable information relative to the Births and Marriages, and especially concerning the classified causes of Deaths; the various calculations of rates of Birth, Marriage, and Death proceeding upon the population and the rate of its increase, as ascertained at the last CENSUS.

CHAPTER V.

THE CENSUS, AND SOME OF ITS USES.

INTRODUCTION.

Registration is daily ; the Census, decennial in the United Kingdom, except in London where there is now a quinquennial Census, less comprehensive than the Census to be described in this Chapter.

The first British Population Bill was read a third time and passed on 22nd December, 1800 ; and the enumeration which, after half-a-century of discussion, originated in March, 1801, has been repeated ever since in the first year of each decennium, the Census of 1901 being the eleventh.

Upon more than one occasion, Scotland had an Act for herself. This was the case in 1891. But for 1901 there was a return to the original arrangement, the last Census being taken under the provisions of an Act for taking the Census of Great Britain, with the short title of "Census (Great Britain) Act, 1900," passed on 27th March, 1900, and printed in the Appendix to this book.

The Census was a regular Roman institution, it being one of the duties of the two Censors to prepare a catalogue, at the Villa Publica, of the people and their property, the main object of the Roman Census being to ascertain what a man

was worth, for purposes of assessment (Cicero, *De Leg*: bk. iii. c. 3).

The quinquennial registering and rating of the citizens in ancient Rome, therefore, had not much in common with our enumeration, save the name; and on this subject Roman Law lends no light of great value to modern nations.

Births and Deaths—additions and subtractions—are registered at all reasonable hours; but, at present, the total population of the United Kingdom is counted, as already mentioned, only every ten years; and this decennial numbering is known pre-eminently as *The Census*.

In France the Census is threefold, enumerating *la population de fait, de droit, and municipale*. That is—(1) “*de fait*,” all present at a given place at a given time; (2) “*de droit*,” all those usually resident excluding those temporarily present and including those temporarily absent; and (3) “*la population municipale*,” which is “*de droit*” less the army, prisoners, hospital patients, scholars resident in the schools, and the like. The Scottish Census is practically the first—an enumeration of all the persons in a given place at a given time, with notes by the enumerators, stating the numbers temporarily present and absent.

Evolution and the doctrine of heredity rest upon a statistical basis. Large numbers have great inertia; and the constancy of masses makes possible their measurement. Statistics of the measurement in all its manifestations of the whole social organism are attempted to-day, and greatest of all statistical operations is the national numbering. It is not only vital, but also cultural, and a stock-taking of the economic condition of the whole nation.

Acknowledged measure, in many ways, of the evolution

of a country, basis for legislation and administration, and for the calculation of rates of mortality and other important Vital Statistics, the Population Census not only pictures the present, but, on comparison with previous Censuses, shows also the direction in which we are travelling and the rate of progress.

DIVISIONS OF THE SUBJECT.

The general scheme and purpose of the Census being so well known, it is unnecessary to go minutely into detail here; and the short sketch for which only I have space may fitly be divided into three main parts:—

1. **Collection of Material**, including a consideration of the preliminary question — **What is to be Collected?**
2. **Tabulation of Material Collected**, and **Summarising of Results**.
3. **Remarks on Results**, involving some conclusions regarding **Progress**.

WHAT IS TO BE COLLECTED?

What questions shall be inserted in the Census Schedule is a matter much discussed. Ardent sociologists would like the Schedule to be a record of family faculties and family budgets, an album of life history, with statements as to height and weight, colour of hair and eyes, with confessions regarding religion and possessions.

But even Scotland is not yet sufficiently well educated all over to be able to answer such autobiographical questions readily and accurately. After, say, a quarter of a century of Carnegied Colleges it may be possible to obtain everything really desirable in the Census Schedule. In the meantime,

as the householder or occupier fills up the form himself, the admitted rule is that the questions must be such as there is almost universal ability to answer.

Full information as to occupations is obviously very desirable, with the object of securing, by means of the Schedule, a fairly reliable, although unavoidably somewhat rough, Industrial Census. In this way, there is ascertained not only the number of persons employed in each trade or industry, but also the number of persons in each sub-division of that particular trade or industry.

With the view of procuring complete and quite definite details regarding employment, the Schedule has been altered and expanded from time to time in the compartment headed "Profession or Occupation." One third, indeed, of the space in the Schedule to be filled up by the Occupier is now devoted to details of occupation, and no less than half of the other side of the form is filled with instructions for filling up the Columns headed "Profession or Occupation."

The particular branch of the trade or industry, and the material worked or dealt in have to be specified, also, whether the person is an *employer* (other than of domestic servants), a *worker* for an employer, working on his *own account*, or carrying on a trade or industry *at home*. To the non-legal and non-sociological mind, this precision may appear somewhat too elaborate and detailed. But it should be borne in mind that the key to the condition of a country lies in its lists of occupations.

The careful and intelligent classification of employments, with the numbers, ages, and sex of those engaged in them, give results indeed of the greatest value, showing the support given to our population by any occupation at the time of each Census and thus indicating industrial development as well as making known what we all live by in broad Scotland. Statistics generally show, chiefly, only quantity; but such figures reveal something of a country's quality.

OCCUPATIONS.

In the earliest Censuses of Scotland—1801, 1811, and 1821—there was a rough division of the people under the three heads of Agriculture, Trade, and Others. It was in 1831 that the first attempt was made towards more details. In 1841 the principal occupations were recorded; and in 1851 the present system was originated of endeavouring at each successive Census to procure fuller particulars as to the occupations of the phase and period of civilisation reached in each decennium.

It is right, therefore, that the Census Schedule should give greatest attention to the subject of occupation; and, accordingly, Columns 5, 6, and 7 are allotted in the last Schedule to profession or occupation. The facts obtained thereby are the completest ever yet secured by the Population Census. To make the figures tell the story clearly of our progress is the ideal of a very distinguished sociologist, The Rt. Hon. Charles Booth, F.R.S., LL.D., ex-President of the Royal Statistical Society, who, in a letter to the present writer, remarked, “I believe a good deal more will be made of the Occupation returns in the 1901 Census than ever before.”

And the subject is stated with force in the following quotation from the General Report on the Eighth Census of England and Wales (page 38):—

“The number of a nation is limited by its organisation,—in professions, trades, and industries. Without government, without defence, without the sciences, without literature and the arts, without tools, without dwellings, without agriculture, without commerce, without roads, without ships, without mines;—without all the complicated mechanism of industry, society would cease to exist, and men would lose their highest prerogatives.”

*Percentage, in Six General Divisions, of Occupations
in United Kingdom.*

Class.	Percentage.
I. Professional Persons,	3·3
II. Commercial,	4·4
III. Domestic,	6·2
IV. Agricultural and Fishing,	6·7
V. Industrial,	23·9
VI. Children, and Adults with no Specified Occupation,	55·5
	<hr/>
	100

In Scotland, the percentage of the whole population actively employed is—Agriculture, 14; Trade, 10; and, Industry, 58.

AGES.

Let us now turn to Column 4 of the blue paper, half-yard measure, of our population and progress.

The difference in value to society between say, a mature man and a puling child being extremely great, it is obviously necessary to have ages stated; and in Britain you are asked boldly for your age last birthday.

Statistics as to age were first attempted formally in 1821, but the answering of the question was then optional; and the attempt was so unsuccessful that except for the ancient and Biblical division of males into those under and those over twenty years no notice was taken of age in the following Census of 1831. The Census of 1841 was much more stringent; it provided that the numbering should be simultaneous, in one day, and required the occupation, birth-place, and the exact age. Of fundamental importance in estimating and regulating the strength, development, and character of a nation are changes in the proportions of sex and age.

As an eloquent Census Report observes:—"A Census in

which only the numbers of a people are taken is necessarily incomplete; for in time man differs almost as much from himself as he does from the things around him; and the changes which he undergoes are not wrought solely by external circumstances, but arise in the ordinary course of his life. How different is he in infancy, in the prime of manhood, and in decrepit age!"

Written more than half-a-century ago, the Report from which I quote the foregoing is composed in a more literary fashion than the official Reports now common, the tendency to-day being generally for the Government to give the information, and leave the reader to illumine figures with the lime-light or the search-light of his own fancy or philosophy.

Approximate Age Table for the United Kingdom.

Age.		Percentage.
I.	From birth to 4 years inclusive, . .	12·0
II.	„ 5–14 „ . .	22·8
III.	„ 15–24 „ . .	19·6
IV.	„ 25–34 „ . .	14·7
V.	„ 35–44 „ . .	11·3
VI.	„ 45–54 „ . .	8·7
VII.	„ 55–64 „ . .	5·9
VIII.	„ 65–74 „ . .	3·5
IX.	„ 75–84 „ . .	1·3
X.	„ 85–100 and upwards . .	·2
		100

INFIRMITIES.

More delicate even than the question of age is the last query in the Schedule (Column 10), which deals with the subject of infirmities—the only item on which there is serious and very reasonable difference of opinion regarding the value of the returns obtained.

The Scottish Schedule asks the informant to write the precise infirmity, if any, opposite the name of the person, and, if the infirmity dates from childhood, to add "from childhood." The general terms "afflicted" or "infirm" are not to be used, but clear exact words—(1) Deaf and Dumb, (2) Blind, (3) Lunatic, and (4) Imbecile, feeble-minded. It may be pointed out that imbecile means "without strength either of body or mind," denoting thus both *physical and mental* feebleness. The final word "Feeble-minded" is not in the Act, 63 Vict. c. 4, section 4, subsection (1) (b); and it seems to carry the Census quite far enough, as (without being exactly imbecile or insane) we cannot all, even in big-brained Scotland, be expected to be decidedly strong-minded: information as to the *bodily* infirmities of blindness and the like are readily given; but, possibly, parents and guardians are reluctant, in some instances, to record *mental* weakness not fully in the nature of incapacitating infirmity. And it was recommended in an influential memorandum that the last column should be dispensed with, on the ground that, as it was alleged, experience had proved the data procured thereby to be unreliable and valueless. But the information so collected *is* in a way valuable, as showing what deductions have to be made in calculating the strength of a nation—just in the same way as allowance has to be made for the very young and the very old.

Age being thus considered, it is not intended to include, in the Infirmity Column, the natural imperfections of extreme years. So it was unnecessary—though a touching instance of truthfulness—for the Duke of Wellington, *et*at 82, to record himself in 1851 as being deaf. The Iron Duke confided this fact to a gossiping friend. Otherwise, it would have remained unknown to the world. For Census Reports make public no individual particulars, and mention no names of persons. All employed in the work of the Census observe

the strictest secrecy, and nothing is published save in the form of General Abstracts.

There is, therefore, no direct use made of the first Column in the Schedule, for NAME. Column 9 collects information as to *Gaelic* speaking for persons of three years of age and upwards. Erse in Ireland, and Welsh in Wales and Monmouth are similarly treated; but it is not fully established that such information is of tested value. There seems in the twentieth century to be a Celtic revival, chiefly in Ireland. Welsh is on the wane, however; and, similarly, our grand old Gaelic is said to be going fast.

BIRTHPLACES.

There is a double value in the Column in the Census Schedule headed "Where Born." It shows not only the birthplaces, but also something of the migrations. For instance, it is interesting to look over the population of our Scottish Capital thus analysed under Counties of Scotland, and to learn therefrom that Edinburgh has some 17,000 persons who were born in England, and that more than half the total population had their nativity elsewhere than in Edinburgh.

The decrease of 240,000 shown at the 1901 Census as having occurred in Ireland is explained partly by Irish emigration. There is indeed a saying now that "half Glasgow is Irish." That is an exaggeration applicable only to limited areas in St. Mungo. But Lanarkshire shows about eleven and Dumbartonshire, and Renfrewshire rather a higher, percentage of emigrants from Erin; and the Irish-born form more than five per cent. of the population of all Scotland, being fully six per cent. in the Burghs. There is, of course, a much larger proportion if there were included those *not born* in Ireland, but in Scotland of Irish parentage. The majority of the immigrants from Ireland belong apparently to the class of unskilled labourers.

RELIGION.

The Irish Census Act includes a provision for taking account of religions, with a proviso, however (since 1881), that "no person shall be subject to any such penalty for refusing to state his religious profession." Only about fifteen hundred persons refuse ; and it is concluded, therefore, that the people in Ireland (a gradually decreasing population), do not look upon the question as inquisitorial. The inquiry, which has been made successfully at five Censuses, is intended to ascertain, mainly the proportion of Protestants to Catholics. Protestants are requested to name their particular Church, Denomination, or Body.

Basing their proposal upon the fair success of the religious Census in Ireland, and ignoring the different conditions of the countries, enthusiastic ecclesiastics and statisticians have again and again urged upon the Government the adoption of a similar question in the Schedule for Great Britain. In 1880 the subject was warmly debated in Parliament ; but the religious question was rejected.

"If it were proposed to take a Religious Census, do you think it would be worth while tabulating every different sect., or dividing between what is your Established Church in Scotland and what is your Nonconformist Church in Scotland merely?"

The foregoing was a question put by the Census Committee of 1890 to which The Registrar-General replied :—

"I think, if the census were taken at all, that probably those who wished to have it taken would desire that it should be made as minute as possible."

It may be mentioned that in 1851 an attempt was made towards a census of religions in England and Scotland. In that year, the church accommodation was enumerated, and returns were made of those attending the different churches

on Census Sunday, 30th March. Admittedly imperfect, such figures were not conclusive; and an absolutely reliable census of religious beliefs is probably impossible. "Reasons of weight, mainly of a political character, have been urged against the requirement of returns under this head," says the Census Commission Report of 1890.

Census-taking has its limits. The great analytical process can be extended only with the utmost care and deliberation. To widen it too much would be to weaken it. And judging from the personal experience of three Censuses, I may add that an initial objection to a census of religious professions in Scotland is that the enumerator would be apt to be tempted to insert in the Schedule his own denomination in those cases where he completed the Census Schedule, or corrected it as erroneous, which he is authorised to do. A large number of persons, in city districts especially, attend and are attached to no church regularly; and if an enumerator belonged to a body called so, he might return, in many urban districts, the majority of the inhabitants as "Go-as-you-please Christians."

HOUSING.

But although some families can live apparently without any professed religion, they all require a house, or shelter of some kind. The question of housing is one of the first importance, and it is tackled most thoroughly in the Scottish Census.

The Census (Great Britain) Act, printed in Appendix, in sub-section (4) of section 12, provides that in the application of the Act to Scotland. "The particulars to be furnished by the Enumerators shall show, with respect to each dwelling-house, the number of rooms, including a kitchen (if any) as a room, having a window, not being a window with a borrowed light."

Thus the statistics as to house accommodation are most complete in Scotland, the tables showing clearly the number of houses, persons, and windowed rooms. Such figures have been obtained in Scotland since 1861; and they have been the basis of improvement in the housing of the people—especially in Edinburgh, Glasgow, Dundee, and Aberdeen, where during the last two decades have been reformed some over-crowded areas and many insanitary dwellings—the attack upon the “slum” regions still going on, for it is a work requiring care and prolonged effort.

The number of storeys to a house might possibly be entered by the Enumerator with advantage; and perhaps other information as to the style and character of the various streets might be recorded.

In Austria, where the Census Schedule is of the size of an open sheet of “The Standard” newspaper, one of the questions is—“Have you a Bath-room?”

A continuance of the improvement of housing in Scotland is revealed in the results of 1901. There are now more persons to each family compared with 1891,—4·62 compared with 4·59; there are fewer families to a house, 1·07 and 1·04; also fewer persons to each house, 4·92 and 4·82; while there are more rooms to each family, 3·02 in 1891, and 3·13 at the Census of 1901, and fewer persons to each room,—1·48 and 1·52.

The population of Dundee lives to the extent of 51·83 per cent. in houses of two rooms; Paisley has 49·80 similarly housed; Glasgow, 45·50; Aberdeen, 33·28; and Edinburgh, 29·86. Aberdeen has the highest percentage of persons living in houses of seven rooms, and Edinburgh is at the top as regards houses of ten or more rooms.

Something of the standard of comfort and living in a city and a country can be learned from a careful and intelligent study of the statistics of Housing.

Having given reasons for each item in the Columns of the

Census Schedule, I turn now from dealing with what is to be collected to the subject of the

MEANS OF COLLECTION.

In England previous to 1841 the Census was taken by overseers of the poor. The Census Act of 1841 directed that the work should be under the control of The Registrar-General, whose Department was created to enforce from 1st July, 1837, the registration of births, deaths, and marriages. In Scotland parochial schoolmasters were employed chiefly to enumerate in country districts; and the Scottish Census of 1841 and that of 1851 were taken upon commission from London, through the agency of the Sheriffs in Counties and of the Chief Magistrates in the Royal and Parliamentary Burghs.

Following the method adopted in England, when a system of civil registration was established in Scotland (from 1st January, 1855), the machinery thus supplied was used for carrying out the national numbering of the people in North Britain. The Departments of The Registrars-General are considered to be admirably qualified for the undertaking by reason of their acquired facility and skill in statistical work and superintendence. Familiar with their respective districts, the Registrars, Sheriff-Clerks, and Town Clerks are able to supervise the enumeration. The Census of 1861 was successfully made by 1001 Registrars assisted by 8075 Enumerators.

Scotland has a fair supply of patriotic persons to act as Enumerators; and, although they have little of the authority, and nothing of the pageantry, of the Roman Censors, the Scottish Enumerators have a rather heavy task. To collect the Census Schedules from two or three hundred households is no joke—though the work had in 1901 to be done upon All-Fool's Day.

The Enumerator is required to be a person of some address and intelligence, who can write well, and is not less than eighteen nor more than sixty-five years of age. Enumerators are not mere account-collectors,—as it were, to be treated with scant courtesy, but temporary Government officials doing national work. They are, indeed, the modern representatives of the early Enumerators mentioned in Numbers as appointed to help Moses to take “the sum of all the congregation of the children of Israel, after their families, by the house of their fathers.” And it should give dignity to the bearing and courage to the heart of a twentieth-century Census man to remember that he has the honour to be in considerable measure the successor of these “renowned of the congregation, princes of the tribes of their fathers, heads of thousands in Israel.”

REGISTRARS AND ENUMERATORS.

There are about eleven hundred Registrars in Scotland. Each of the Registration Districts constitutes a principal Census Division, and these are subdivided into suitable Enumeration Districts.

A Plan of Division of each Registration District is drawn up by the Registrar. This Plan contains details of divisions embraced, such as the Civil Parish, the Ecclesiastical or *quoad sacra* Parish, the School Board District, Parliamentary constituency, and the village, burgh, or town. These Plans are revised by the Sheriff-Clerk generally; and in the special cases of eight chief towns—Glasgow, Edinburgh, Dundee, Aberdeen, Greenock, Paisley, Leith, and Perth, under the supervision of the Chief Magistrate and the Town Clerk.

At the same time a list of the Enumerators proposed is submitted by the Registrar, each Registrar selecting his own Enumerators.

THE WORK OF THE ENUMERATOR

consists in leaving a Schedule with every occupier of a house in his district, during the week previous ; taking a note of every Schedule. On the morning following Census Day, he begins to collect the Schedules, seeing that all he left are accounted for.

Where necessary, he helps householders with advice in filling in details, sometimes requiring to complete the Schedule himself. The Enumerator himself enters the number of windowed rooms into the Schedule. In his notebook he records the number of persons temporarily absent and temporarily present, distinguishing males and females, and giving reasons ; also the uninhabited and unoccupied houses and the houses being built in his district. Some details regarding height and style of the houses might perhaps be added, as already remarked under "Housing."

The Schedules having been all collected, the Enumerator in Scotland or England (though not in Ireland) settles down to a spell of transcribing, for he has to copy carefully all the particulars from each Schedule into an Enumeration Book ; making, finally, a summary of its contents, showing precisely the population, houses, &c., in his district as at midnight on Census day.

In Ireland, the Royal Irish Constabulary, and Dublin Metropolitan Police act as Enumerators, and send the Schedules (without copying) to the Census Office.

Speaking from my own experience, at the Censuses of 1881, 1891, and 1901, I may remark that scarcely a Schedule comes into an Enumerator's hands but requires some amendment. Most often males and females are entered in the same Age Column. Rarely is the Occupation stated precisely enough ; very frequently the County of the Birth-place is wrong. And surprising it is to find how few

occupiers are certain as to the exact number of windowed rooms in their house !

REGISTRARS' DUTIES.

Summarily, the Registrars' duties consist in making arrangements sufficient to secure the enumeration of every person in their respective districts.

Obviously a point of primary importance is the obtaining of competent Enumerators acquainted with the locality. "Any clergyman or any professional man who takes an interest in the people of the place might be invited to act," says the Instructions to various Local Officers. But, except when an Enumerator breaks down and a Registrar is unable to obtain a person to fill the vacancy, he is not to act himself as an Enumerator. For, upon the Census Collection Day, he is instructed to "watch vigilantly the progress of Enumerators."

The Schedules and Enumeration Books having been completed by the Enumerator and returned to the Registrar, the latter at once proceeds with a strict examination of the whole ; when he has revised everything the Registrar makes a summary of the total population and other details pertaining to his particular district. The Registrar, in course, receives his own fees, and pays his Enumerators. Then he waits, conscious of a task well done, for the payment of the Registrars' *Bonus*, which is remitted when the tabulation at the Census Office has advanced sufficiently to show that the general character of the work warrants the awarding of that additional remuneration.

SUMMARY OF THE SYSTEM.

The accuracy and development of the Scottish Census depend on a complex system of checks and tabulation. I have not space here to go into detail. Considerable experi-

ence in explaining the principles, machinery, and results of the Census has proved that the five main steps of the process are most readily followed and remembered if put in the order and after the manner of "The House that Jack built."

First, The **Householder** or Occupier of the House fills up his Schedule.

Second, The **Enumerator** makes up a book as relator of the contents of the Schedule that the Householder filled up.

Third, The **Registrar** sees whether the Enumerator has been a true relator of the contents of the Schedule that the Householder filled up.

Fourth, The **Clerk, — Sheriff, or Town, —** revises the Enumerators' Books.

Fifth, And last, comes the crown of the work :

This is the **Census Office** ordained by the Act, for making a statement detailed and exact, which collated minutely with critical eyes what the Sheriff-Clerk had to revise.

SHIPPING.

The Schedules containing information as to the population on board ships—which at the date of the Census were in Scottish waters—the returns of which are not included in the Registrar's Summaries, are collected and forwarded to the Census Office in the case of the Royal Navy through the Admiralty, and in the case of the Mercantile Marine by The Registrar-General of Shipping and Seamen, London.

A special Schedule is prepared for the shipping population. In it are spaces for showing the place at which the schedule is delivered to the Master, the position of the Vessel at midnight on Census day, and the number of

persons—crew and passenger—who were on shore on the night of the Census.

The Customs Officers at the various ports fill in the compartments stating the port to which the ship belongs ; her tonnage ; whether steam or sailing ; and how employed. The occupation columns here are easily filled for the most part, and show the rating of each of the crew. From the various ports, the Schedules are sent to The Registrar-General of Shipping in London, who forwards them (in accordance with the places indicated in the Schedules) to The Registrars-General of England, Ireland, and Scotland.

The maritime greatness of England has moulded her destiny ; and her ships have carried away from these shores the seeds of many nations, just as the rude vessels of our Saxon forefathers brought them to Britain. Each survey of the progress of the Empire reveals the unrivalled spread and success of the Saxon race, in fulfilment of the prophecy put by Shakespeare into the mouth of Cranmer (*Henry VIII.*, Act V. Scene iv.) :—

“ Wherever the bright sun of heaven shall shine,
His honour and the greatness of his name
Shall be, and make new nations : he shall flourish,
And, like a mountain cedar, reach his branches
To all the plains about him : our children’s children
Shall see this, and bless heaven.”

II.—TABULATION AND SUMMARISING.

FROM the massed material, the collection of which has been sketched, the Central Census Office builds up a series of tables in three large volumes. Much of the Tabulation is almost automatic, being mechanical in character, although, of course, requiring care and accuracy. Everything is arranged in easily accessible form, the whole being reduced to a definite general outline in a few significant averages.

The completed Tabulation is so clear that the legislator, financier, and political economist, can at once obtain light on the development of any district. Large "Occupational Sheets" have their results concentrated into Tables showing the numbers employed in various industries, the Blue-Books of the Census containing a complete analysis of the population in sub-divisions, according to age, sex, and occupation; their birthplaces; and the numbers of married and single.

But the preparation of this very valuable three-volume work of fact and analysis necessarily takes two or three years. The public curiosity is satisfied, in the meantime, with a rapidly-prepared abstract; this is based upon the Summaries of their districts made by each Registrar, and is entitled—"Preliminary Report containing Tables of the Number of the Population, of the Families, of Houses, and of Rooms with Windows, in Scotland and its Islands" on Census day.

III.—RESULTS AND REMARKS.

DEFINITE results are evolved from the chaotic mass of detail by careful and accurate statistical methods. (But this is not the place to give particulars of "box-making," and improved similar systems.) The Census Reports give the administrator guidance, primarily, by showing the number of each sex and age, in Parishes, and the like. In such Blue-Books, the sociologist studies the progress of industries; ages of work-people in different occupations; alterations in age grouping; and cause and effect as revealed in average ages in country and in town; marriage ages in various occupations; and something of the connection between those industries which are of unhealthy effect and infirmities, or high mortality.

Leaving these advanced questions, I turn to the first fact in the Census results—the alteration in total number. The

increase in the population of Scotland between 1891 and 1901 is the largest shown in any decade, being an addition of 446,456 to the population of 1891, 4,025,647, making the total as shown at the Census of 1901, 4,472,103.

The increase was made up of 231,038 males and 215,418 females. More than numerical information is, however, given by the Census, which shows not only the vitality but also the movement of the population.

DISTRIBUTION OF THE INCREASE.

Spots have been darkened with population ; while others have thinned. As men mature, they leave birthplaces for workplaces. Town population is growing at the expense of country. Purely agricultural counties are being deserted for manufacturing, coal-field, and industrial districts. Agricultural recession is said to have begun even earlier in Scotland than in England, and the feature of the Census of Great Britain most remarked upon is the decrease here and there shown in the rural districts.

If the recruiting grounds—the healthy nurseries for towns—are being too much depleted, it is a fact to be deplored. The danger of rural depopulation, however, has been perhaps somewhat exaggerated.

But that there is a general tendency to swarm into towns in Scotland is shown by the fact that while the town districts, with a population of 2000 and upwards, have increased in the last ten years by 15·12 per cent., the mainland-rural districts have increased, on the whole, only by 0·87 per cent., while the total insular-rural regions actually have decreased by 3·40 per cent. Thus, there has been insular-rural depopulation to the extent of 4280 persons of both sexes. It is noticeable that only 187 of these are males, 4093 being females, who mostly find their way into towns as domestics.

Out of the total increase of 446,456 the town districts contain 442,200.

The true function of wealth is the production of full-brained, full-breathed men and women; but this great aim of life is apt to be overlooked in crowded industrial centres.

Artificial and enervating, life in large towns is not considered conducive to the maintaining of the fullest strength of man; and much of the energy and health of our largest cities is due to arrivals from the country—Edinburgh, for example, being steadily recruited from the counties of Fife and Perth, and Glasgow from Argyll, and adjoining counties, as Dundee from Forfarshire, and Aberdeen from its large county area.

RURAL DEPOPULATION.

Taking Aberdeenshire as a typical county to illustrate the Census of 1901, it is found that 26 Registration Districts show an increase and 66 a decline, although the county as a whole shows a steady growth from 121,065 in 1801, to 284,036 in 1891, and in 1901 to 304,439.

Even more than in England is there an outflow from Scotland. So that, never can the alteration of the population be determined satisfactorily by deducting the Deaths from the Births. But it is clear that not a little of the increase in Scotland is owing not to increase in Births, but to the diminution of Deaths. The birth-rate has, in fact, declined. There has, however, been an even greater proportionate decline in the death-rate; and the diminution of the death-rate is a very important factor now in the national welfare and increase of population.

The Public Health aim "to lengthen life by lessening the agencies of death," as Dr. Leslie Mackenzie well defined it, in effect, is successful to-day in saving thousands of lives every year. "Everywhere increased value is placed on the

life of each individual citizen," said the same authority. That well-known writer is now the Medical Member of the Local Government Board, which appointment gives fuller force to his further words: "As Public Health practice aims at destroying the environmental conditions that make infection possible, so it aims at constructing the conditions that will make clear heads and enduring nerves possible."

Higher ideas as to house comfort now prevail; and the rural depopulation problem is, perhaps, partly one of housing. Cottar houses have decayed; and they have not been replaced by houses meeting modern requirements of sanitation. Quiet country hamlets seem to me to be taking on much of the aspect of "The Deserted Village." Rural blacksmiths are declining in importance both as tradesmen and as gossips. They still mend carts. But complex reapers and binders are repaired chiefly by fresh fittings in town. And the trades of rural tailors and shoemakers are being ruined by machine-made boots and suits of clothes made or manufactured in cities.

GROWTH OF CITIES.

The rural tradesman is, accordingly, not encouraged sufficiently, much of what was once his business falling now to the share of towns; and very remarkable has been the recent expansion of the city.

Aberdeen, for example, has increased in population in the last ten years 22 per cent. and in assessable value (excluding railways and the like) roughly 40 per cent. The greatest example in our country of the connection between the development of industry and a steady increase in the population is, however, found not in the City of St. Machar but in that of St. Mungo. The rapid growth of Glasgow, indeed, led in the last century to its outstripping the Capital

—which, at the first Census, outnumbered the iron city by fully five thousand inhabitants. In 1801, Glasgow had a population of 77,385, which had risen in 1851 to 329,096, and in 1901 (with an area extended) to 760,406. Thus Glasgow now includes almost ten times its population since the first numbering (the word Census was not then common), and its growth has been fairly healthy, with nothing of the mushroom character of Chicago.

Edinburgh's population also illustrates the urban development. In 1831, the Capital had 136,294 inhabitants; in 1851, 160,302; in 1871, 196,979; in 1891, 261,225; and in 1901, 316,479.

The massing of persons together into stupendous aggregations is indeed the chief feature emphasised generally by all recent Censuses. It is a movement of concentration accompanied by expansion, and has its climax in London, with 6,600,000 inhabitants. The Metropolis, however, is rather a federation of 29 self-governing boroughs than a City. Its population equals that of all Belgium, is greater than that of Portugal or Sweden, twice that of Switzerland, and half-again as much as that of Ireland or Scotland.

Places showing an increase at the Census are pleased; those with a decrease, depressed; and those where the addition is less than expected, explain the fact by a falling off in trade. Slackness in the jute and flax industries is the explanation of the comparatively small increase (4·5 per cent.) in "Juteopolis." But Dundee, it should be borne in mind, is under the further disadvantage, unlike Aberdeen, of not being a residential city.

POPULATION AND PROGRESS.

The Essay on Population appeared in 1798, when the proposal for a Census was under discussion. Malthus worked without reliable figures, and much exaggerated the

magnitude of the danger of over-population. He has lately been rather misrepresented and should be studied in his own writings, from which I quote this sensible statement: "That an increase of population when it follows in its natural order is both a great positive good in itself, and absolutely necessary to a further increase in the annual produce of the land and labour of any country, I (says Malthus) should be the last to deny." Not a little might be said in favour of the men, Godwin and others, assailed by Malthus. Condorcet's pet idea of the indefinite prolongation of life was ridiculed by Malthus. But that is the great aim of all reasoning men in the twentieth century, although it is for lengthening of human life all round—not that of the isolated individual—that Science and Public Health authorities are striving so successfully.

To afford evidence of the relation of one group of phenomena to another is the most important function of the statistics supplied by the Census: the information is a guide to action by indicating how effects have been produced in the past, and, consequently, the means of future improvement. In "London," for example, the Census Tables of England for 1901 show much detail which is intended, it is understood, to facilitate legislation. I have, however, no space here to dwell longer in any detail upon the manifold uses of the Census.

Population it has been pointed out already is increased by diminution of deaths; but to maintain only the number as before requires a certain number of births; and the natural increase needed is more than two—one for the mother and one for the father; for provision must be made for the cases of spinsters and of those who die before maturity.

At all times the checks upon mankind multiplying operate through disease, want, and war; vice, circumstance, and will.

The decline in natality in Scotland is probably due partly

to the decrease of illegitimacy. In the past half-century, the ratio of children to each marriage has also fallen off from 3·92 in 1851 to 3·63 in 1900, though in the early eighties it rose to $4\frac{1}{3}$; and it was 4·31 in 1876. The birth-rate per thousand of the population in Scotland was 35, and in France 26·2, in 1876; and in 1893 there was a decrease of 4 and 4·1 respectively, making the figures 22·1 for France, and 31, for Scotland. Such steady decrease in natality per marriage and in the birth-rate generally is caused, possibly, by the apparent unwillingness of parents to bring more children into the world than they can rear in their standard of comfort and education. But in Scotland such decrease is bad for Greater Britain.

The Colonies and the Dependencies of the British Dominions have followed the example of the mother-country in the matter of the Census; and this stupendous inventory of our human commonwealth is now regularly taken in almost every part of the King's Empire.

A Census of the whole British Empire to be published in one volume on the lines of the General Report of the Irish Census, was suggested by the Imperial Federation League, for the reason, chiefly, that Governmental relations between the United Kingdom and its Dependencies would be better determined by a uniform Imperial Census. But, save as to number, sex, and age, uniformity is impossible for so wide an area, and diverse a population at so varying stages of civilisation, the varied climates and productions rendering a uniform classification of Occupations impossible. Such a Census is therefore impracticable; it would, indeed, most likely be useless and misleading; and, accordingly, the Colonies are continuing for the most part to collect facts by their Censuses and to classify them in their own methods—the methods they believe most advantageous for their special requirements. Total population, sex, age (in different periods), and condition as to marriage, are points included in

each Colonial Census ; while in some places attempt is made to ascertain an astounding number of facts in addition, as to possessions in the way of property, houses, and cattle. Canada, for example, follows the United States partly in having an extremely exhaustive series of questions regarding its increasing population of 3,800,000 mostly British, and about 1,400,000 French. One or two of the Australian Colonies also attempt to ascertain an astounding number of facts regarding land and house property, sheep and cattle, in their Continent with its total population of about 4,600,000 whites. Those, however, who move chiefly along the old, tried lines of the British Schedule seem to secure the more reliable returns.

The Imperial Census of India is in magnitude and complexity difficult to over-estimate. To enumerate its population of over three hundred millions with even approximate correctness is a Himalayan task—the very Mount Everest of Censuses. Eighty or ninety millions of Schedules in seventeen different characters (not counting dialects), and a million and a quarter Enumerators, who mostly write up the Schedules for the illiterate, constitute the machinery for this mighty task. The Indian Census succeeds wonderfully. It is always thoroughly rehearsed ; and the fears and prejudices of the native people are diminishing somewhat under the beneficent and firm rule of the Emperor of India. The population is divided on the basis of language into 118 groups, with twelve leading divisions. About 295 millions of its inhabitants are brown in colour ; and it is remarkable that in India there are, in all, only about 100,000 white persons.

Speaking at the historical luncheon given by the Corporation of Edinburgh to the Colonial Premiers in the Diamond Jubilee year, Lord Balfour, sixth Baron Balfour of Burleigh (then sixth Secretary of State for Scotland and so placed over the Census of our country), in proposing the toast of

the Colonies (in one of the most effective speeches I have heard from the lips of that experienced and sagacious statesman) made appropriate use of the following quotation from an oration delivered by Daniel Webster seventy years ago:—
“The English flag waves on every sea and in every part of the world, and the morning drumbeat of her soldiers, following the sun and keeping company with the hours, circles the earth with one continuous strain of the martial airs of England.”

This is more than a figure of speech, “Blue Books” show that it is no mere metaphor to say that ours is an Empire on which the sun never sets. In 1871 a universal numbering of the inhabitants of the British Empire showed a population all over the world of 235 millions, occupying about 7,770,000 square miles; 430 millions occupying about 12,000,000 square miles is the latest estimate of the population and extent of that great Empire of which—as Lord Rosebery has well said—“We are the tenants in fee, and of which we inherit the responsibility and the glory.”

“Statistics” are commonly considered dry. They are not. Population statistics are “history in repose,” just as history is simply “statistics in motion.”

Each survey of the progress of the Empire proves our vast development. And it must be borne in mind that Scotland has done her share well in peopling the world, sending out from her shores bands of healthy and hardy emigrants as the outflow of her splendid vitality.

Emigration is greatest in dull times; least in those of exceptional briskness of trade and industry.

Population and prosperity act and re-act upon each other. Often a country may appear to have outgrown its resources, when in reality it had merely outgrown the development of its resources. Then, the pressure of population should make men bestir themselves. Population tends generally to

increase with means of subsistence. And Adam Smith authoritatively remarks that—"The most decisive mark of the prosperity of any country is the increase of the number of its inhabitants."

Continuous prosperity is evidenced by a glance at the population of Scotland at each of the eleven Censuses :—

Census.	Population.	Increase in Ten Years.	Percentage of Increase.
1.—1801	1,608,420	...	...
2.—1811	1,805,864	197,444	12·27
3.—1821	2,091,521	285,657	15·82
4.—1831	2,364,386	272,865	13·04
5.—1841	2,620,184	255,798	10·82
6.—1851	2,888,742	268,558	10·25
7.—1861	3,062,294	173,552	6·00
8.—1871	3,360,018	297,724	9·72
9.—1881	3,735,573	375,555	11·18
10.—1891	4,025,647	290,074	7·77
11.—1901	4,472,103	446,456	11·09

The increase of the Population of Scotland in the One Hundred Years since 1801 is an addition of 2,863,683 Persons, or 178·04 per cent.

(For the first time in the United Kingdom, a Census of British Production is to be taken, under statutory authority, in 1908.)

The total number of the population, their conjugal condition, and the proportion of the sexes; their ages; their dwellings; their varying occupations; their birth-places, and their migrations—these are the main objects of the great analytical and statistical process of the Population Census: the accepted measure of the development or the decrease of progress, picturing the present social state, and, on comparison with previous Census-pictures, indicating the direction and the rate of movement of the march of the world.

CHAPTER VI.

SPECIAL POINTS.

IN this Chapter will be dealt with, chiefly, points—mostly of considerable importance—the full discussion of which earlier in the treatise would have interfered somewhat with the connection and continuity of the general sketch of the Scottish system of Vital Registration, including Vaccination and the Census, which is given in the preceding portion of this work.

And Registrars of the more important districts, with others of experience in the matter of Registration, will probably find most to interest them in the following Special Points—classified, so far as their treatment admits classification, under Marriage, Birth, Death, Miscellaneous.

1.—MARRIAGE.

PUBLIC opinion has almost achieved in over half-a-century what Scotland declined to allow Parliament in 1847 to put into law in a Bill to amend the Law of Scotland affecting the Constitution of Marriage. One clause required Registration on a penalty of £50 for failure. No marriage was to be valid unless registered. To-day any union which has not been recorded is regarded with great suspicion by society.

The Scotch Marriage Bill (as it was called) also provided for what appeared to be practically Marriage by means of Registration. Parties were to sign the Register before two

witnesses ; “ upon which Registration only the Marriage shall be held to be contracted ; ” and it is hereby declared, continued that measure, that such registration shall of itself constitute marriage, and such parties shall thereafter be held and deemed to be married parties to all effects and purposes whatever. The normal fee was to be 5s. for registration.

We all know that marriage is a civil contract. It is not, however, classed with ordinary contracts, but as a solemn engagement over which the Church should preside. It is, as Lord Stair observes, “ a divine and not a human contract ” (Stair, i. 4. 1). Scots Law recognises and favours the religious element in marriage. And there is, in many minds, therefore, a distinct, general preference for marriages *in facie ecclesiæ*.

But marriages contracted under Lord Brougham’s Act of 1856 have not a little of the element of marriage by registration as proposed nine years earlier.

How to enforce and secure the registration of a marriage which requires no formality at all save consent was a puzzle also to the promoters of the Marriage and Registration Bills which were rejected in 1849. These measures were denounced as calculated to uproot the ancient consuetudinal marriage law of Scotland, and likely to strike a heavy and malignant blow at our morality. I must admit, however, that I have not been able to understand exactly in what manner the facilitation of marriage would so deplorably relax the moral tone of a community as the extreme opponents of the Marriage Bill of 1847 asserted. The chief mistake made in connection with the measure appears to have originated in the endeavour to follow too closely the course of similar legislation for England.

The English Marriage Act, 6 & 7 Will. IV. c. 85, had introduced a system of registration in the larger country. English Marriage Law, with its restraint on minors and

attention to details of celebration and the like, appears to have readily admitted the innovation. Legislators at Westminster sometimes overlook the facts that Scotland has had other environing influences than England, and has shaped her marriage law differently.

Law being the effluxion and crystallised expression of national customs and character, each nation in making, moulding, and fixing its own law must generally proceed upon the principles of its ancestors; and, although the mercantile has much assimilated, important differences exist still in the matrimonial laws of England and Scotland.

Most law is admittedly a compromise between the past and the present, between tradition and convenience. Special conditions in a country produce particular forms. Law is, however, fundamentally the same in all civilisations; the germ developing in accordance with soil and climate.

Modified somewhat by the course of judicial decisions and the working of rules of evidence, the ancient canon law continues to govern the constitution of legal marriage in our country.

“The leading principle is that *Consent makes marriage*. No form or ceremony, civil or religious, no notice before or publication after, no consummation or cohabitation, no writing, no witnesses even are essential to the constitution of this, the most important contract which two private parties can enter into, whether as affecting their domestic arrangements or the pecuniary interests of themselves and their families.”

“Matrimonial consent may be verbally and effectually interchanged when no third party is present; and if it can be proved, even at the distance of years, by subsequent written acknowledgments or oath of reference, or in any other competent way, that such consent was seriously and deliberately given, the parties will be held to have been married, from that time forward, whether they have cohabited

in the interval or not.” (Lord Deas: Leslie and Leslie, Court of Session Reports, 2nd Series XXII., page 993.)

Refusing to throw over this principle of consent—basis of our marriage law, as thus explained by a very learned judge, Scotland, in 1849, rejected the Marriage and Registration Bills, which were indissolubly linked together. The Registration Bill, had it stood alone, would most probably have been passed into law; for there was no objection on principle to a proper recording of Births, Deaths, and Marriages.

In spite of this severe lesson, one hears yet of cries for uniformity, and a distinguished writer in the last edition of the *Encyclopædia Britannica* asserts that “a Registration Act embracing the United Kingdom is much needed”; but, being a London barrister, that author is perhaps somewhat out of sympathy with, and knowledge of, Caledonia’s character and law.

The Scots Law of Marriage is denounced by short-sighted people who fail to see that a law theoretically bad (in their opinion) but practically good, is preferable to one beautiful in theory but productive of evil in the endeavour to enforce its practice. It is a Marriage Law entirely devoid of technicalities. And the system works well, producing very few of the evils imagined by those not familiar with the fact that its freedom is not generally abused. In Marriage, as in most affairs, a certain freedom is a national characteristic.

Appropriately I may quote here a very strong opinion by the late Lord President Inglis, the very highest legal authority:—

“I dissent from so much of the Report [on the Marriage Laws of the United Kingdom] as involves a proposal to abrogate the essential principle of the Marriage Law of Scotland,—that present consent to be husband and wife deliberately interchanged between a man and a woman, labouring under no incapacity to contract, makes marriage

between them, without the necessity either of a religious ceremony or of a compliance with any statutory forms or solemnities.

“The evils imputed to the Scottish system, in so far as it is based on this essential principle, appear to me to be greatly exaggerated, and to be much more than over-balanced by its beneficial influence and effect. In particular, the existing law of Scotland ensures an absolute certainty that every regular marriage shall be unimpeachably valid. Present consent being all that is indispensable to constitute marriage, the evidence of that consent, in the case of a regular marriage, is of course complete, and nothing can obstruct its efficacy. The consequence is, that hitherto persons regularly married *in facie ecclesiæ* in Scotland have been entirely exempted from those harassing doubts as to the validity of their marriages, which have always more or less frequently occurred in England, and which must be of possible occurrences in every system, however well planned and matured, which makes forms and ceremonies essential to the validity of the contract.

“The extreme rarity of irregular marriages in Scotland shows how greatly the evils supposed to be attendant on the Scottish system have been exaggerated. In the interests of society it appears to me of infinitely less importance, to save the very few persons who contract irregular marriages, from the consequences of their own conduct—or to protect any one who by his culpable tampering with law and morality puts himself in the imaginary position of ‘not knowing whether he is married or single,’—than it is to ensure as matter of absolute certainty the validity of every regular marriage. . . .

“It is of paramount importance that a law so closely interwoven with the social and domestic relations, and exercising so powerful an influence on the moral condition of a people as the Law of Marriage, should be not merely agreeable to

the population at large, but should command their cordial sympathy and respect. Such is the Marriage Law of Scotland, in its leading principles, to the people of Scotland now. . . .

“Entertaining a settled conviction, founded on experience and a patient study of the subject, that the Marriage Law of Scotland is preferable in theory and principle to the Marriage Law of England, and that it has in practice been highly beneficial, in its influence on the social condition and morality of the people, I cannot assent to a proposal to alter that law in any particular affecting its essential principle.

“JOHN INGLIS.

“*July, 1868.*”

The uncertainty of irregular marriages was aimed at in the Bill rejected in 1849. Irregular marriages unregistered (there was then no Lord Brougham’s Act) had objectionable possibilities; such marriages were not common at that time; and now they are of the rarest, being unknown in the experience of most registrars, only about a couple of score of Registrars in Scotland, possibly, having ever registered the legitimate child of an unregistered irregular marriage.

Similarly, the low limits of legal marrying age are advertised upon by some writers on law; and if marriage at twelve and fourteen became the common custom, probably it would be necessary to raise the ages.

It has been well observed that the age of legal capacity to marry has been fixed at a period much earlier than that at which marriage can, in any case, be prudent or desirable; but it rests upon the principle that marriage ought not to be made impossible by law between those who are capable by nature of being the parents of children. Immature marriage is not common in Scotland, nor concubinage,—which might easily become marriage by habit and repute. French Marriage Law is too statutory for Scotland. The

Scots Law of Marriage indeed has less of the mantle of state legislation than in most other countries. The contract is allowed to be entered into by any civil form expressive of consent, and means are provided for the recording of all marriages with a view to the preservation of evidence.

MARRIAGES—IRREGULAR.

“This maxim itself might content ye—
That marriage is made by consent,
Provided it's done *de presenti*,
And marriage is really what's meant.”—LORD NEAVES.

There occasionally emerge marriages by written consent (unregistered). In one case, the parties were desirous of registration. To effect this, a marriage was carried through under the provisions of Lord Brougham's Act. And, as the written consent had been exchanged exactly within three months from the date of the registration of the “civil” marriage, there was, at the special request of the parties, inserted in the first column of the Marriage Entry the following note:—

“Parties held they were married by written consent on 22nd May, 1896.”

But it would appear that the note as to the alleged written consent was allowable only because registration was secured within three months from the date thereof,—the date of the marriage by consent.

“CIVIL” MARRIAGES.

Although, owing to the decision of Sheriff Glassford Bell in *Smith v. Dollar* in 1862 (*vide supra*), page 67, a different practice prevails in Glasgow, as already stated, it is only on registration after Conviction (under the Act of 1661) or after Declarator, that the fee of 20s. is generally held to be

due to the Registrar under sec. 48 of 17 & 18 Vict. c. 80. The fee for registering an irregular, or civil, marriage carried out under the provisions of Lord Brougham's Act is laid down as 5s. for an Extract (sec. 2, 19 & 20 Vict. c. 96).

MARRIAGE REGISTER—IRREGULAR MARRIAGE.

Right of Registrar to fee for procuring Warrant to register.—For the circumstances in which it was *held* that there was no right to repetition of £1 paid to a Registrar (of Marriages), as usual in Lanarkshire, for his assistance to the parties in procuring Warrant to register an Irregular Marriage, see *Boyd v. Hall*, Sheriff Court Reports, Vol. XIV., p. 214.

The marriage is registered, according to Example No. 4, on the authority of a Warrant, of which the form is generally as follows:—

DECLARATION OF MARRIAGE.

1.

I,
do hereby accept of
as my lawful wedded wife; and I, the said
do hereby accept of the said
as my lawful wedded husband; and we do hereby declare
ourselves to be lawfully married to each other. In witness
whereof this Declaration of Marriage, written so far as not
printed, is subscribed by us at No.
within the Registration District of in the Burgh of
Dundee, on the day of
Nineteen hundred and before these Witnesses,

Witness.

(Signature of Bridegroom.)

Witness.

(Signature of Bride.)

2.

Unto the Honourable the Sheriff of Forfarshire.

The Petition of

HUMBLY SHEWETH,

That upon the _____ day of _____
Nineteen hundred and _____ years, at _____
within the Registration District of _____
in the Burgh of Dundee, the Petitioners contracted an
Irregular Marriage in the presence of _____

That the _____ Petitioner had lived in Scotland,
for Twenty-one days next preceding such Marriage.

May it therefore please your Lordship, on considering the
Petition and the Proof to be adduced in support thereof, in
terms of the second section of the Act 19 & 20 Vict. c. 96,
to certify that the Petitioners have been married to one
another, and that the _____ Petitioner had lived
in Scotland for Twenty-one days next preceding such
marriage; and also to grant Warrant to the Registrar of the
District aforesaid to enter such Marriage in his Registers for
the present year, in terms of the Act 17 & 18 Vict. c. 80.

In respect whereof, &c.

(Husband's Signature.)

(Wife's Signature.)

(Date),

19

3.

At Dundee, the _____ day of _____
Nineteen hundred and _____ years,

In presence of _____
Sheriff-Substitute of Forfarshire, appeared the Petitioners.

Compeared _____
who, being solemnly sworn and examined, depones—That I

District, "in the District of (St. Giles, Edinburgh), on 21st June, 1902."

Such double marriage should, obviously, be included only once in statistical returns; of course, the first is the real date of the union; and, accordingly, the marriage should be counted in the return of the Registrar who has recorded the civil marriage.

Indeed, the second registration appears to be immaterial. But the Registrar is required by the terms of sec. 46 to record a (genuine) Marriage Schedule duly filled up and presented to him for that purpose. The Registrar-General has allowed a marginal note to be made, in a few cases, on the Entry of the Irregular Marriage, mentioning the date of the subsequent ecclesiastical ceremony. Thus:—"Subsequently married according to the Forms of the Established Church, at Church of Cluny, 26th December, 1906."

GRETNA GREEN MARRIAGE RECORDS.

The old Parochial Register of Graitney (or Gretna) and Red Kirk, which contains an imperfect record of the regular marriages in the parish from 1730 to 1854, is in the Register House. But the registers kept by certain persons of Border, "run-away," or Gretna Green Marriages are not in the office of The Registrar-General, as they are not parochial but private. So far as is known, they are scattered; some of them being, it is understood, in Carlisle. And probably the best course for anyone desiring to ascertain their whereabouts, or to have a search made in these remarkable records for an entry, is to apply to a Solicitor at Carlisle, or some one in the locality. "Lord Brougham's Act" in 1857 cut off the opportunity previously existing for run-away English couples entering incontinently into matrimony at Gretna Toll, of which hasty unions the informal and non-parochial "registers" above mentioned are said to record a very large number.

MARRIAGE WITH FOREIGNERS.

An Act to Amend the Law with respect to MARRIAGE between
BRITISH SUBJECTS and FOREIGNERS (6 Edw. VII. ch. 40).

The Marriage with Foreigners Act, presented by the Under-Secretary for Home Affairs, applies to all parts of the United Kingdom, the provisions relating particularly to Scotland being set out in a separate schedule. It may be explained that in certain foreign countries British subjects cannot marry subjects of the countries in question without the production of a declaration from some British authority to the effect that no obstacle is known to exist which would render the marriage invalid according to British law. No proper means existed to enable such a declaration to be obtained.

Clause 1 of the Act makes good this defect. The protection afforded to their subjects by the countries in question through the requirement of a declaration of that character is now given by British law to British subjects who marry foreigners in the United Kingdom. Steps must be taken to ascertain whether a marriage valid here would be valid in the foreigner's country. Cases had previously occurred of Englishwomen married in England to foreigners, who found that their marriages were not recognised by the law of the countries to which their husbands may have returned, or in which they owned property. This state of things not only gave opportunity for cruel fraud, but sometimes inflicted irreparable wrong unexpected by either party. One of the cases which led to the introduction of this measure came under my notice in Paris in 1903, where a Frenchman who had failed to attend to the formalities necessary in France married a lady in London. His parents, upon his return to Paris, had the Marriage annulled under the drastic provisions of the French Civil Code, and he married a French lady. There was no legal redress in France for his English wife.

Clause 2 provides a remedy for this evil. Its application is left to an Order in Council so that it may be made operative only in the case of nationalities whose Governments make satisfactory arrangements to supply their subjects with the necessary certificates at a low cost. It is understood that several Governments are prepared to do this, France, Belgium, and Italy.

Provisions Relating to Scotland.—1. The applicant shall give a notice to the Registrar of the parish or district in which he shall have resided for a period of not less than fifteen clear days previous to the giving thereof. Such notice shall be in the form as nearly as may be set forth in Schedule A to the Marriage Notice (Scotland) Act, 1878, but shall state in addition to the particulars therein set out the *nationality* of the parties to the intended marriage.

2. On the receipt of a notice of an intended marriage the registrar, being satisfied that the notice is conformable to the requirements of this Act, shall forthwith enter the particulars set forth in the notice in the Marriage Notice Book kept in terms of the Marriage Notice (Scotland) Act, 1878, and shall on the same day post, or put up in a conspicuous and accessible place on the door or outer wall of his office, a public notice of the intended marriage in the form as nearly as may be set forth in the Schedule B annexed to the said last-mentioned Act; but stating, in addition to the particulars therein set out, the *nationality* of the parties to the intended marriage, and shall keep the same so posted or put up for seven consecutive days thereafter.

Provisions as to Objections.—3. (a.) Any person may enter with the Registrar an objection against the granting of the certificate signed by him or on his behalf, and stating his residence and the grounds of his objection.

(b.) The Registrar shall refer any objection to The

Registrar-General, who shall decide whether it ought to obstruct the granting of the certificate or not, and shall instruct the Registrar accordingly, and the instructions so given shall be carried out by the Registrar.

(c.) The objection shall cease to operate, (1) if withdrawn by the person embracing it; or (2) if it is decided by The Registrar-General that it ought not to obstruct the granting of the certificate.

The Act is printed in the Appendix along with some relative Notes.

A TABLE OF FORBIDDEN DEGREES.

(KINDRED AND AFFINITY.)

<i>A Man may not marry his</i>	<i>A Woman may not marry with her</i>
1. Grandmother,	1. Grandfather,
2. Grandfather's Wife,	2. Grandmother's Husband,
3. Wife's Grandmother.	3. Husband's Grandfather.
4. Father's Sister,	4. Father's Brother,
5. Mother's Sister,	5. Mother's Brother,
6. Father's Brother's Wife.	6. Father's Sister's Husband.
7. Mother's Brother's Wife,	7. Mother's Sister's Husband,
8. Wife's Father's Sister,	8. Husband's Father's Brother,
9. Wife's Mother's Sister.	9. Husband's Mother's Brother.
10. Mother,	10. Father,
11. Step-Mother,	11. Step-Father,
12. Wife's Mother.	12. Husband's Father.
13. Daughter,	13. Son,
14. Wife's Daughter,	14. Husband's Son,
15. Son's Wife.	15. Daughter's Husband.
16. Sister,	16. Brother,
17. Wife's Sister,	17. Husband's Brother,
18. Brother's Wife.	18. Sister's Husband.
19. Son's Daughter,	19. Son's Son,
20. Daughter's Daughter	20. Daughter's Son,
21. Son's Son's Wife.	21. Son's Daughter's Husband.

A Man may not marry his

- 22. Daughter's Son's Wife,
- 23. Wife's Son's Daughter,
- 24. Wife's Daughter's Daughter.

- 25. Brother's Daughter,
- 26. Sister's Daughter,
- 27. Brother's Son's Wife.

- 28. Sister's Son's Wife,
- 29. Wife's Brother's Daughter,
- 30. Wife's Sister's Daughter.

A Woman may not marry with her

- 22. Daughter's Daughter's Husband,
- 23. Husband's Son's Son,
- 24. Husband's Daughter's Son.

- 25. Brother's Son,
- 26. Sister's Son,
- 27. Brother's Daughter's Husband.

- 28. Sister's Daughter's Husband,
- 29. Husband's Brother's Son,
- 30. Husband's Sister's Son.

2.—BIRTHS.

ILLEGITIMATE CHILDREN.

UNDER the provisions of the 35th section of the Registration Act, and in terms of the Regulations (page 14):—

“In the case of an *illegitimate* child, the Registrar must not enter the name of any person as the father, unless at the joint *personal* request of the mother and of the person acknowledging himself to be the father, who, under these circumstances, shall sign the Register, as informant, along with the mother, and shall be registered as the father, the word ILLEGITIMATE being added to the child's name (*See Example No. 7, prefixed to the Register Book of Births*).”

Question has now and then arisen regarding registration, when the parents have been married between the date of the birth and the time of registration. The regulations, however, give guidance in these words:—

“This [Example No. 7] is the proper form of entry in the case of a child born before, but whose birth is not registered till after, the marriage of its parents, the fact of the subsequent legitimization being, of course, duly recorded.”

In other words, generally the date of Birth, and not the date of Registration, regulates the form of the entry. The strictly legal form of entry is accordingly that shown in the Example No. 7 prefixed to the Birth Register.

The same regulation as to joint-signing prevails in England; where, also, it is held that "this rule will hold good even where the birth is registered subsequently to the marriage of the mother with the putative father."

Of course, however, in Scotland the child in most cases is legitimated whenever its parents marry. And it is understood that sometimes a note has been permitted to pass in Column (4), below the name of the mother, that she was "Married to the above designed John Brown, on 25th June, 1901;" the mother being allowed to sign, in Column (5), her married name. The latter concession seems reasonable, but the note as to marriage is somewhat objectionable; and unnecessary if the parents desire the legitimation to be recorded in the usual way, as should be done.

If the mother dies before registration, she is entered as "(deceased)," it is true, although it is not precisely the state of things at the moment of birth. The death of the mother or father, it must be remembered, however, is a matter of fact; while the form of the entry involves considerations of legal status.

**ILLEGITIMATE CHILD — FATHER WISHING TO
ACKNOWLEDGE THE PATERNITY, BUT UNABLE
TO ATTEND WITHIN THE 21 DAYS.**

On being satisfied that the father is likely to come within three months from the date of the birth, the Registrar, in accordance with the principle laid down for cases where the mother is unwell (page 14, letter *f* of the Regulations), may postpone the Registration, accordingly, in order that the mother and the person acknowledging himself to be the father may attend together, and sign the Register.

In some cases, where the Registration has been carried through without making the mother aware of the above privilege, the Registrar-General has authorised the cancellation of an entry made upon the information of the mother

alone, and the Re-registration, within the three months, of the birth in the form for an illegitimate child where the paternity is duly acknowledged. In still rarer special instances, the Sheriff, upon application of the parties, has granted Warrant allowing the putative father to sign in the Register of Corrected Entries.

ILLEGITIMATE CHILDREN OF MARRIED WOMEN.

“L'obligation naturelle qu'a le père de nourrir ses enfants a fait établir le mariage, qui déclare celui qui doit remplir cette obligation. Les peuples dont parle Pompius Mela ne le fixoient que par la ressemblance.

“Chez les peuples bien policés, le père est celui que les lois, par la cérémonie du mariage, ont déclaré être tel, parce qu'elles trouvent en lui la personne qu'elles cherchent.”—
(MONTESQUIEU, ESPRIT DES LOIS, LIVRE XXIII. c. iv.)

The presumption of legitimacy requiring to be set aside before the child of a married woman can lose the status of lawful issue, the mother of the *alleged illegitimate child of a married woman* requires herself to make a statement that her husband is not the father, and indicate, generally, impossibility of access, in order to have the birth recorded in the approved form for such cases.

In the Parentage Column, the declaration is to the following effect:—

“Mary Ann Findlay, flaxmill worker, wife of William M'Intosh, chemical works labourer, who, she declares, is not the father of the child; and, further, that she has had no personal communication with him since he went to South Africa, about two years ago.”

The child's name in Column (1) is entered alternatively in the maiden and married surnames of the mother, thus —“John Findlay or M'Intosh;” and the birth is indexed under both surnames. Generally, the mother signs her married name in Column (5); “Mary Ann M'Intosh.”

In accordance with usage, and because of the child being, in a way, born in wedlock, and being thus not an ordinary illegitimate child (but an adulterine bastard), the word "illegitimate" is not inserted in Column (1),—not even if the paternity is acknowledged at Registration; in which case the child receives the putative father's surname, say "John Larkin"; the name and occupation of the father, "John Larkin, Joiner (Jour.)," appearing in Column (4), and he signing in Column (5) after the mother, adding his address, if he lives out of the house in which the birth occurred. Whether the paternity is thus acknowledged or not, the mother's (voluntary) declaration in Column (4) remains the same.

But the declaration requires to be altered in a case where the woman has cohabited with her husband after the date about which the child in question was begotten. The dates should be given, and the statement made as definite as possible, somewhat in the following terms (after name and occupation of the husband):—"Who, she declares, is not the father of the child; and, further, that she did not see, nor have any personal communication with, him between the end of April 1900 and Christmas 1900." The birth instanced took place on 21st March, 1901; and a consideration of the dates in the declaration clearly shuts off the chance of the husband being the father. But in any case where there is dubiety, the Registrar should report the case fully to the Registrar-General, in order to have prescribed the proper form of Entry.

When the mother has died before registration, the voluntary declaration requires alteration, somewhat as follows:—"Margaret B., wife of John S., Cooper (Jour.); who declared to the Informant that her husband was not the Father of the Child." (Deceased, 17th June, 1905.)

In a complicated case of a Birth, where the Mother of the child was married twice within a year; the birth occurring

nine months after the conviction for Bigamy of the husband of the first marriage within the year, and the Mother being a Widow previous to that marriage: her third marriage taking place a week prior to the Birth of the child, who was registered in the name of "William M., or S., or G." (Col. 1), the Mother being described in Column (4) as:—"Jane M. or A., married 30th April, 1881, to W. S., Carter, in respect of which marriage he was convicted of Bigamy, 16th August, 1881; now wife of J. G., Joiner (Jour.), to whom she was married on 3rd March, 1882, and who, she declares, is not the father of the child." And the Entry was signed "Jane G., Mother."

ENTRY OF BIRTH OF MARRIED WOMAN'S BASTARD.

The Registrar ought to register the Illegitimate child of a married woman born *stante matrimonio* as Illegitimate, on her information, and it is improper to lead proof before the Sheriff in an application for an order to make such an Entry. (Miller, Petitioner, Guthrie's Selected Cases, Vol. I., 476.) Unless both the husband and the mother of the child concur in desiring a declaration as to the paternity to be inserted in the Birth Entry, a child born of a married woman appears entitled to a status of legitimacy, *if the mother lives with her husband*. But it is now recognised as sound law that the fact that access or intercourse was physically possible is not of itself sufficient to prevent the presumption of legitimacy from being redargued (case of *Brodie*, 1872, 11 M. 142). And, although at the time of the child's conception the husband and wife resided in the same village, the Court held the presumption of legitimacy rebutted in a later case (*Steedman*, 1887, 14 R. 1066). It appears, therefore, that the proof necessary to redargue the presumption of legitimacy is not so utterly unassailable and strictly unquestionable as in the earlier years of registration. If the husband and the mother had

not been living apart for quite nine months, the declaration usually runs: "A. B., wife of C. D., Postman, who, she declares, is not the father of the child." The child's surname, in such a case, being entered as "B. or D." in Col. (1) of the Birth Entry. And one meets occasionally with entries where the mother asserts that her husband "is not the father of the child; and, further, that she has had no personal communication with him since they ceased to live together, two years ago." In such cases the living apart generally points to illegitimacy, although, of course, the husband might, or might not, continue to reside in the same town. A careful statement of circumstances and dates is clearly necessary in applying, in cases of difficulty, to the Registrar-General for instructions as to the precise form and terms of the Entry.

MARRIAGE DUBIOUS.

The form of entry should be regulated by the statement of the informant; and, accordingly, if the father of a child considers himself to be lawfully married to its mother, it is the duty of the Registrar to record the birth, in the usual form, as legitimate. But, if necessary or expedient, the informant may be warned of the consequences of giving false information (secs. 60 and 62). And a date and a place of marriage are required, in the ordinary way, to the best of the informant's knowledge and belief.

The Registration of the issue of a marriage with, say, a deceased wife's sister might possibly be covered by this instruction; for if in recording a birth the parent gives the usual details of a marriage to be entered, it scarcely appears to be within the province of a Registrar to question the legality of the union.

The late Sheriff-Clerk of Lanarkshire, Mr. Sellar, gave considerable attention to questions of Registration, and in his book of Forms for Sheriffs and Sheriff-Clerks, there appears,

on page 324, the following statement bearing on an aspect of cases of dubious marriage :—

“Cases have occurred where the father of a child, afterwards alleged to have been illegitimate, has registered it as legitimate, entering the mother as his wife. This being an important acknowledgment, although not necessarily conclusive proof of a marriage, the Sheriffs in Glasgow have usually declined to authorise any correction of such entries.”

Bigamy.—In the case of the Birth of a child born of a bigamous marriage, all the circumstances, with names and dates, should be communicated to the Registrar-General, with a draft form, for instructions as to the precise terms of the Entry.

GYPSIES' AND TINKERS' CHILDREN.

A large portion of these are entitled to be registered as Legitimate. A Date and Place of Marriage must be stated.

Not a few of the parents are married in the ordinary way. Others, by living together and holding themselves out as married persons, have sufficiently declared their matrimonial consent, possibly even without specific promise or *de præsenti* acknowledgment, thus constituting a marriage by “habit and repute.”

Generally, where marriage is alleged, even although it may be irregular and unregistered (as just indicated), the children may be recorded in the usual form for legitimate children. And special research has shown me that most of these itinerants' offspring are registered in that form. But in one or two very rare instances where the alleged marriage was attempted to be qualified as being a union only “for the time being,” the child has had to be registered by one or both parents as illegitimate.

Widows.—Where the dates indicate that the child *might* be posthumous, it is generally necessary to report the case to the Registrar-General, in accordance with the instructions as to cases of doubtful *status* (Regulations for Registrars, page

15, letters *b-c*). But where the date of the husband's death precludes all possibility of his being the father, the Birth is at once recorded in the ordinary form of a Widow's Illegitimate Child, the word "(Illegitimate)" being inserted in Column (1), where the child's surname is that of the maiden and married names of the mother; thus, "John Brown or Robertson (Illegitimate);" and the mother is described as "Mary Brown, Milliner, Widow of Thomas Robertson, Baker (Jour.), who died in Cupar, 17th May, 1900;" the mother generally signing her married surname. If the paternity is acknowledged, of course the child is entered under the putative father's surname.

The paternity is more frequently acknowledged at Registration in the case of a widow's illegitimate child than in similar cases of married women. Schedule (F) is not common in such cases.

In France (by the Code Napoléon) researches into the paternity of illegitimate children are forbidden in all cases.

In a case where the deceased might (so far as the dates go) have been the father, but the mother voluntarily declares that her late husband is not the father of the child, Col. (4) of the Birth Entry may be as follows: "A. B., Milliner, wife of C. D., Clerk, who died in Cruden on 5th April, 1904, and who, she declares, is not the father of the child." The child's surname in Col. (1) is entered as "B. or D.," and the Mother signs the Entry in her usual signature. The Birth quoted occurred on 22nd December, 1904.

Divorcées.—The illegitimate child of a divorced woman is generally registered similarly to that of a Widow. Col. (4) is filled up thus:—"Jane Rose, Millworker, married on 15th July, 1892, to Robert Johnston, Stevedore, Divorced 9th Feb., 1904." If the father does not attend at the registration to sign the Entry, the child is recorded generally in the maiden

surname of the Mother. If the date is a year or so from that of divorce, the word "Illegitimate" appears in the first column; but if the date of the birth is only five or six months, or such like, from that of the divorce, the word is omitted; and the form is as follows:—

John Green or Brown.	1903, November Second, 10h. 0m. A.M. Upper Largo.	M.	Elizabeth Green, Milliner, mar- ried on 6th June, 1900, to Thomas Brown, Sawyer, from whom she was divorced, 10th June, 1903; and who, she declares, is not the father of the child.	Eliz. Green, Mother.
----------------------------	---	----	--	-------------------------

The Mother signs the Entry in her usual signature.

A Registrar wrote me as follows:—"I think in the case of divorced persons the decree of court dissolves the marriage and restores them to their former condition of Bachelorhood or Spinsterhood, and they should be described as such." Neat; but inadmissible: for the guilty party becomes as dead, and the other is, accordingly, in the position practically of a widow or widower; both being describable as "Divorced," or "Formerly married."

Certainly, in cases of divorce on the ground of desertion it appears to be determined by the statute 1573, c. 55, as interpreted by Lord Stair (i. 4. 20) that—"the party injurer loseth all benefit accruing through the marriage; but the party injured hath the same benefit as by the other's natural death."

In cases where the "Divorce" is obtained in Scotland, the Marriage recorded there is so marked in the Register of

Marriages, an insertion relative to the Decree of Divorce being made in the Register of Corrected Entries and a reference thereto put in the margin of the Entry affected.

(If the Divorce took place furth of Scotland, a Marriage recorded in Scotland shows generally no marking as to the Divorce.)

Women recently married.—The presumption of legitimacy does not extend to a child born at a time when the date of the husband's death renders it impossible that he was the father. But in the converse case, that of *a woman not long married*, say a couple of months, there is a strong presumption of legitimacy ; and the nearer the date of the birth to that of the marriage, the stronger is the presumption that *Pater est quem nuptiæ demonstrant*. It is obvious that in all probability the husband was aware of the woman's condition when he married her : accordingly, it is held probable that in such a case the Court would require special evidence before it would set aside the presumption of legitimacy pertaining to a child born in wedlock. But rare and peculiar cases do occur where children born any time from about six months to six weeks, or less, after marriage are alleged to be illegitimate—not the offspring of the husband. And *if both mother and husband concur* in desiring a declaration as to the paternity to be inserted in the Register, there appears, in Column (4) of the Birth Entry, a statement that the mother was married on such a date to the husband, who is not the father. Thus, "A. B. married at (*place*) on (*date*) to C. D., Tailor (Jour.), who, she declares, is not the father of the child." The child's surname is alternative, B. or D., in Column (1), and the word Illegitimate is not inserted. The mother generally signs the Entry as Informant in her married surname, and all such cases should be communicated before registration to the Head Office for instructions in the special circumstances.

SOME CHRISTIAN NAMES FOR HELP WHEN
INFORMANT HAZY AS TO SPELLING, &C.

I.—NAMES USUALLY MALE.

Aaron.	Bertram.	Gerard.
Absalom.	Bevis.	Gervais.
Adolphus.	Biddulph.	(Jervis.)
Adrian.	Botolph.	Graham.
Alan.	Brian.	Gregory.
Alian.	Bryan.	Godwin.
Allen.	Cæsar.	Godwyn.
Alastair.	Cecil.	Gustavus.
Alistair.	Cyril.	Halbert.
Alphonso.	Daniel.	Hamish.
Alwyn.	Denis.	Harold.
Ambrose.	Dennis.	Hereward.
Amias.	Dorian.	Holman.
Amyas.	Ebenezer.	Horace.
Angus.	Edgar.	Humbert.
Anselm.	Edmund.	Humphrey.
Archibald.	Edwin.	Ian.
Artemus.	Eleazar.	(Ean.)
Aubrey.	Emanuel.	Ignatius.
Augustus.	Era'smus.	Immanuel.
Austen.	Ernest.	Isaiah.
Austin.	Eugene.	Jacob.
Baldwin.	Eustace.	Jerome.
Barnaby.	Evelyn.	Jesse.
Bartholomew.	Felix.	Joscelin.
Bartlett.	Ferdinand.	Jude.
Basil.	Francis.	Jules.
Benedict.	Frederick.	Julian.
Benjamin.	Geoffrey.	Kenelm.
Bernard.	Gerald.	Kenneth.

Lancelot.	Noël.	Rupert.
Laurence.	Octavius.	Sampson.
Leonard.	Olave.	Samson.
Leopold.	Osborne.	Seth.
Lionel.	Osmond.	Sigismund.
Llewellyn.	Oswald.	Solomon.
Lyulf.	Percival.	Stanilaus.
Lyulph.	Percy.	Stephen.
Malcolm.	Philemon.	Sydney.
Marmaduke.	Philip.	Terence.
Matthew.	Quentin.	Theodore.
Maurice.	Ralph.	Theophilus.
Maximilian.	Ranald.	Timothy.
Mervyn.	Randolph.	Tristram.
Montague.	Raphael.	Ulysses.
Murdoch.	Reuben.	Uzziah.
Murtough.	Roderick.	Vincent.
Napoleon.	Roland.	Vivian.
Nathanael.	Ronald.	Vivien.
Nathaniel.	Rowland.	Vulcan.
Ninian.		

II.—NAMES USUALLY FEMALE.

Abigail.	Arabella.	Bridget.
Adelaide.	Audrey.	Camilla.
Agatha.	Aurora.	Catherine.
Alison.	Avice.	(Katherine.)
Alice.	Avis.	Cecilia.
Allison.	Barbara.	Cecily.
Alys.	Beatrice.	Celia.
Amabel.	Beatrix.	Chloe.
Anastasia.	Bethia.	Christabel.
Annabella.	Blanch.	Clarice.
Antoinette.	Blanche.	Cordelia.

Cynthia.	Griselda.	Leonora.
Dagmar.	Grisell.	Letitia.
Daphne.	Grizel.	Lilian.
Dauida.	Guenevere.	Lilias.
Diana.	Guinevere.	Lily.
Dinah.	Gwendolen.	Louisa.
Dorothea.	Gwendoline.	Lucia.
Dorothy.	Hannah.	Lucilla.
Eileen.	Harriet.	Lucretia.
Elaine.	Henrietta.	Lydia.
Eleanor.	Hermione.	Madeline.
Elsie.	Hester.	Magdalen.
Elspet.	Hesther.	Margaret.
Elspeth.	Hilda.	Maria.
Emmeline.	Honoria.	Melicent.
Esther.	Hortense.	Mildred.
Eunice.	Hypatia.	Milicent.
Euphemia.	Imogen.	Millicent.
Euphrasia.	Inez.	Miranda.
Evangeline.	Irene.	Mona.
Eveleen.	Isabel.	Monica.
Eveline.	Isobel.	Muriel.
Evelyn.	Jamesina.	Naomi.
Felicia.	Jaqueline.	Nora.
Fiona.	Jeanie.	Norah.
Florence.	Jeannie.	Octavia.
Frances.	Joanna.	Olive.
Frederica.	Jocelyn.	Ophelia.
Georgette.	Joyce.	Patricia.
Georgiana.	Judith.	Penelope.
Geraldine.	Julia.	Philippa.
Gerardine.	Juliet.	Phillis.
Gertrude.	Kathleen.	Phœbe.
Gladys.	Keziah.	Phyllis.
Gretchen.	Laura.	Portia.

Priscilla.	Sarah.	Ulrica.
Psyche.	Selina.	Una.
Rachel.	Sibyl.	Ursula.
Rebecca.	Silvia.	Valeria.
Rebekah.	Sybil.	Vera.
Rhoda.	Sylvia.	Veronica.
Rosalind.	Tabitha.	Virginia.
Rosaline.	Tamar.	Wilhelmina.
Rosamond.	Theodora.	Williamina.
Rowena.	Theresa.	Winifred.
Sabina.	Thirza.	Zenobia.
Salome.	Thyrza.	Zillah.
Sara.		

VACCINATION.

Defaulters.—The thirty-third Article of the Regulations as to the Duties of Registrars under the Vaccination Act is in the following terms:—

On the 31st March and 30th September annually, the Registrar must prepare a List of the Names and Addresses of such persons as have failed to transmit or lodge Certificates relative to Vaccination, and within six days thereafter he must transmit such List to the Inspector of Poor, with a view to its being submitted by that officer to the Parish Council; and where the Registrar fills the office of Inspector, he must himself lay the List before the Board (sec. 18 of the Vaccination Act).

While it is thus imperative that Lists should be sent in once every half-year, it is pointed out in a footnote (*) on page 11 of the Vaccination Regulations, that there would be no objection to a more frequent transmission, particularly in the case of the more populous districts.

Two Years' limit.—There has always been some slight

difficulty in determining what cases should be included in the List. In 1879, it was found, that some Registrars merely inserted the names of those who had failed to transmit certificates when they first became due under the provisions of the Statute, never repeating a case once reported.

The practical effect of such interpretation was to limit the List to the period of half-a-year.

To put the matter on a better footing, the then Registrar-General issued a circular, 18th September, 1879, stating that the Lists should cover two years. That is the minimum, generally sufficient. Registrars, however, report cases older than two years, and full lists are supplied to Parish Councils when required or where deemed expedient for the practical purpose of securing that no defaulters shall escape. Most Registrars indeed, do not find it necessary to take advantage of the permission to include only defaulters during the two years preceding the date of return: there is no statutory authority for the limitation, which is, however, an arrangement meeting with general acquiescence as a working rule, in rare cases where such is necessary; the general practice being to report all cases until the law has been complied with, or otherwise satisfied, thus clearing off, finally, all arrears.

If any Parish Council is not carrying the provisions of the Vaccination Act fully into effect, "the Registrar-General shall call the attention of the Board of Supervision thereto with a view to their providing the requisite remedy" (sec. 20, 26 & 27 Vict. cap. 108).

Removal.—Cases of removal have their procedure regulated by rules Nos. 7 and 8 of "Regulations No. II.," made by the Board of Supervision in 1864, viz. :—

7. If any child named in the Registrar's list shall have left the parish for another known place of residence in Scot-

land before an order to vaccinate such child has been issued and executed, the Inspector of the Poor shall give immediate notice of the fact, and of the circumstances connected therewith, to the Inspector of the parish to which such child shall have gone, whose duty it shall be to use all lawful endeavours to have the said child vaccinated, and a certificate of such child's vaccination transmitted to the Registrar of the district within which the said child was born.

8. If the present place of residence of any child named in the Registrar's list shall be unknown, it shall be the duty of the Inspector of the Poor to take all reasonable means to discover such place of residence, and as soon as such place of residence becomes known to him, to proceed in terms of the preceding regulations.

Under the powers conferred by the fifth section of the Vaccination Act, the above two Regulations (7 and 8) were made by the Local Government Board regarding proceedings under section 18 of that Act.

The validity of these regulations was tested so recently as 22nd December, 1900, in a Justiciary Appeal case stated by Sheriff-Substitute Boyd on appeal against his decision upon a complaint brought by the Govan Parish Council against James Summers, residing at Partick in the parish of Govan Combination, and lately residing at 111 Hill Street, Glasgow, charging him with a contravention of secs. 8 and 18 of the Vaccination Act, in having failed to have his daughter Evelyn vaccinated. The child, aged three and a-half years, was born in the Kelvin district of Glasgow, and on 23rd February last, the Inspector of Poor for the parish of Glasgow made intimation to the appellant of Summers's change of residence to Partick, in order that he might see to the vaccination of the child. On Dr. Campbell, vaccinator for the Govan parish, attending to vaccinate the child, Summers

refused to allow the operation to be performed. The accused objected to the relevancy of the complaint in respect, first, that when the Inspector of Poor, for the parish of Glasgow, received from the Registrar of Kelvin district, the list of names and addresses of persons who had failed to lodge with him certificates of vaccination, he should have submitted it to the Parish Council of Glasgow, in pursuance of whose order the vaccinator should have vaccinated or offered to vaccinate the child: second, that it was not competent for the Glasgow Inspector of Poor, in respect of the regulations of the Local Government Board, to devolve these duties on the Govan Parish Council; and third, that the proceedings against him should have been at the instance of the Inspector of the Parish Council of Glasgow. The Sheriff sustained these objections, and dismissed the complaint. The questions of law were—Whether, in view of the provisions of the Vaccination Act and the regulations of the Local Government Board issued in terms of section 5 of the Act, the proceedings for the vaccination of the child (after the Registrar's list had been received by the Inspector of Poor of Glasgow) should have been taken by the Parish Council of Glasgow; or whether it was competent for that Council or their Inspector of Poor to send the Registrar's list and intimate the default of the respondent to the Inspector of Poor of the Parish of Govan, and for the Govan Parish Council to adopt proceedings for the vaccination of the child; and whether it was competent for the Inspector of Poor, of Govan Parish, to prosecute the respondent for failure to vaccinate and recover the statutory penalty.

The Court answered the first question in the negative, and the second and third in the affirmative.

The Lord President was of opinion that the Sheriff's judgment was erroneous. He considered that the regulations authorised the course that was adopted in this case. These regulations had been in operation for thirty-six years, and this was the first case in which either the power of the Board

of Supervision to make it or its applicability to such a case as the present had been called in question. It would require some strong reason to set aside regulations that had been acted upon for so long a time.

It is a Local Government Board question. But it is also one of considerable general interest to all those connected with the administration of the Vaccination Act. And I quote this case partly because it confirms the opinion I have given to Registrars who have felt some dubiety as to what exactly should be the procedure in similar cases.

The duties of Inspectors on the removal of a child before vaccination from one parish to another are thus clear, and so defined as to minimise the chance of a defaulter eluding the Act in case of changing place of abode.

Postponement Certificate for more than two Months.—There is no authority for a Registrar accepting a Certificate for any time over the statutory period. Consequently, the strict course is to consider such Certificate as being for the usual two months, under the provisions of the 9th section of the Vaccination Act. If the postponement is not renewed at the expiry of the statutory period, the proper way to treat the case seems to be to enter the defaulter in the half-yearly list of persons who have failed to lodge Certificates in terms of the Act; *but stating in connection with the special case, the terms of the Doctor's Certificate.* This action relieves the Registrar from responsibility and brings the case under the cognizance of the Parish Council, who are the proper authorities to deal with the matter, under the direction, if necessary, of the Local Government Board.

Registrar's Notice (sec. 17).—It is the practice of some Parish and Town Councils to allow the Registrar the sum of 1s. in respect of the notice (*vide* sec. 17 of the Vaccination Act printed in the Appendix). Strictly interpreted, however,

the Act does not authorise the payment, as a matter of right, unless the sum has been recovered from the party who has been prosecuted under that section (17). The consideration that the Registrar has a large amount of trouble in connection with this part of his duties under the Vaccination Act, appears to have weighed with Councils in allowing the 1s. for notice to be paid in Registrar's accounts whether it has been recovered or not.

Several Councils allow Registrars 6d. for each notice sent out.

Second Notice.—If a formal notice has been sent at the proper time, the statutory requirement (sec. 17, Vaccination Act) has been fulfilled; and it is not *compulsory* to send a second notice before entering a case in the List of Defaulters. At the same time, however, it is obviously desirable that defaulters should receive reminders; and it is the practice of many Registrars to give reminders. In cases of postponement, where the certificate has expired, it is the ordinary form of notice which is used generally; a note being appended thereon mentioning the date of expiry, thus, "Postponement Certificate expired, 14th June, 1902."

3.—DEATHS.

"DIVORCED" person may be so described in the Death Register (Column 1), or as "(Formerly married)."

"Gentleman" is not a definite designation. If no occupation or profession is stated, Fund-holder, or a similar description may be suitable; the Census phrase "Living on own Means" being rather lengthy for general use, and the expressive French word *Rentier* not being admissible.

Death registered before it occurred.—This happened once in my experience. The informant had been told that

the person was dead, and recorded the event, in good faith, to the best of his knowledge and belief. To put the entry right—as the death actually occurred only two or three hours after its being recorded—all that was necessary was the alteration, under section 63, of the hour originally entered.

Defective Entries would be fewer, if Marriage Certificates were always obtained and preserved; such certificates being useful at registration of the deaths of the parties, as well as at the registration of the births and the deaths of their children. In cases where the informant's information is very defective, the Registrar should delay registration until due effort has been made to ascertain the missing particulars (Regulations, p. 24, letter *e*).

Disappearance of any person should be reported to the Procurator-Fiscal. But, as already pointed out, the Registrar, generally, cannot in such a case make any entry unless the Procurator-Fiscal's inquiries decide that the death has actually taken place, and that it occurred, and should be registered, in his district. The event should be recorded within a reasonable time. It will generally be so if an Extract is required for a Friendly Society or similar purpose. If a second Result of Precognition is received for a death, it may be entered in the Register of Corrected Entries with the heading "Amended (or Additional) Result of Precognition."

Death Certification is well done in Scotland. The few uncertified deaths in towns seem to be almost entirely those of infants where a midwife has been in attendance, and where the child survives only a few days or hours.

Medical Certificates.—Like Vaccination Certificates and similar documents, these may be destroyed carefully after the

lapse of five years. No person is entitled to see a Death Certificate, or similar document, without a diligence, or order of the Court.

Burial Certificate.—A Certificate of Burial is asked occasionally by the Bank of England. And it is understood that such certificate is sometimes endorsed upon the back of an Extract of the Death, by the clergyman of the parish or other competent person.

Seven Days.—The period prescribed by the Act for intimation to the Registrar is five days in England. And the seven days allowed in Scotland should be reduced, says the Committee's Report on Death Certification (1893), as evils result from delay. In practice, however, there seems little to complain of; and the evidence and recommendations of the Committee chiefly serve to show the actual superiority of the Death Certification and Registration in Scotland.

Certificate of death—Medical practitioners right to Fee.—A Medical practitioner is not entitled to a fee from a Registrar for granting a certificate in terms of the statutes as to the death of a patient. *Coats v. Steven*, Guthrie's Selected Cases, Vol. I., p. 474.

Sudden or Suspicious Death.—“In any case of sudden or suspicious death in Scotland, the Lord-Advocate may, whenever it appears to him to be expedient in the public interest, direct that a public inquiry into such death and the circumstances thereof shall be held; and the public inquiry so directed to be held shall take place according to the forms and procedures prescribed by the Fatal Accidents Inquiry (Scotland) Act, 1895, as altered by this Act” (Section 3 of the Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act, 1906).

4.—MISCELLANEOUS.

Adoption.—As Registrars are sometimes consulted concerning cases where children are to be received into the houses of those who are not their real parents, it has to be pointed out that “Adoption” is not recognised in the Laws of Scotland and England, and that, therefore, all such arrangements must be matters of agreement: also, that an addition to, or alteration of, the name in the Birth Entry can be made only under the provisions of section 32 or 33 of the Registration Act, 17 & 18 Vict. c. 80.

Accordingly, no entry regarding “adoption” can be made in the Birth Register. A possible exception to this rule is the case of a newly-born nameless foundling, where the names of the person or persons adopting at the time of the Registration of Birth may appear in the parentage column, with the explanatory words added “(Adoptive Parents).”

Similarly, the names of the adopting parents (so described), should be inserted, unless there is objection, in the *Marriage Schedule* of the adopted person. And in a case where the “adoption” and the assumption of another name were subsequent to the registration of the adopted person’s birth,—and, indeed, in any case where the name is radically different from that registered,—it is very desirable at marriage that Schedule (C) should be signed both in the original and the assumed names for the sake of identification with the Birth Entry, as George Baxter Bruce (formerly George Baxter).

The description should be similar in the first Column of the *Death* Entry of an adopted person, also in the parentage column; and the Entries should be indexed under both surnames (Regulations, p. 19).

Although a child receives the name of the adoptive father, no legal position is thereby secured for the child, the law declining to grant any right of inheritance to such artificial

relationship; so that provision after the death of the adopter for an "adopted" child must be testamentary.

In France adoption is provided for in a certain limited class of cases (Code Civil, 343–360). But our law rejects "adoption" entirely; and the Lord President pronounced (15th Feb., 1900) such an agreement to be *res inter alios acta*, and that it could not affect the child's right to aliment from her father's estate. "No one but the child herself could discharge her right to aliment," said Lord President Robertson (37 S.L.R. 421).

Christian Name.—No time limit is fixed for giving effect to Schedule (D) or Schedule (E) with the Sheriff's endorsement thereon. So that a Baptismal name may be entered even although the Minister who baptised is dead, if his successor signs a document in the nature of Schedule (D) on ascertaining the name from the Baptismal Register, or a Certificate that the child was baptised, by the former Minister, by a certain name.

With the possible exception of a correction by authority of the Sheriff under the provisions of section 63, there are no other ways by which a Christian name may be added to or altered in the Birth Register than those provided by sections 32 and 33, and explained in the Regulations for Registrars, pp. 12 and 13.

Surname of Children altered by finding of Paternity, or by Legitimation.—Illegitimate Children recorded under the surname of their mother, are entitled to be called by the Paternal Surname, in those cases where the Paternity has been found by a Decree of Court or where a Warrant of the Sheriff has been granted for the recording of the Legitimation.

The Registrar in such cases indexes the Birth Entry—already appearing in the Mother's name,—under the surname

also of the Father; and a like addition in cases of Legitimation is inserted in the General Index in the Register House. This double indexing facilitates tracing and identification. But the surname in the Entry itself remains as originally recorded.

The following copy of a notice as to the Name and Legitimation on all Birth Certificates issued in Paris is interesting :—

AVIS IMPORTANT.

Tout enfant naturel, inscrit sous le nom de la mère, n'est *légalement reconnu* par celle-ci qu'après une déclaration spéciale faite, soit à la Mairie, soit par-devant notaire.

Il peut être légitimé par le mariage subséquent de ses père et mère, lorsque ceux-ci l'auront légalement reconnu avant leur mariage ou qu'ils le reconnaîtront dans l'acte même de célébration.

Change of Name.—Unless in the case of an officer under the Crown, or the holder of a public office, there is no need of any authority to enable anyone in Scotland to alter or change his or her name; in Scots Law a person's legal name being that which he or she habitually uses and signs and by which he or she is generally known.

A notary; a W.S., or other person admitted to his profession by the Court may be given authority by the Court to assume and use a new name. In connection with the Registration of deaths, it is observed in the "Analysis" (p. 45), "Where the surname of the Deceased happens to have been changed under the provisions of an entail or otherwise, both the original and assumed surname ought to be entered in the Register thus :—'Douglas (formerly Lindsay).' In this way, the surname within brackets will correspond with that by which the parents of the Deceased are described in the Register, and thus an apparent incongruity will be explained."

Where the name is entered on a roll to which the authority of the Court is given, or which is under the control of the Court, it may be necessary to present an application for authority to change the name in order that the roll may be kept in order. But that rule does not apply to a professional accountant, as Lord M'Laren observed in the following case :—

A Chartered Accountant, who had succeeded to certain entailed estates, of which the deeds of entail contained provisions to the effect that the heir of entail in possession should be bound to assume the name of Durham, petitioned the Court for authority to assume the surname. He held certain official positions to which he had been appointed by the Court, and the petition prayed the Court "to authorise the petitioner to assume, bear, and henceforth to use the name James Alexander Robertson-Durham in exercising the said offices of judicial factor, *curator bonis*, liquidator and trustee; to ordain this petition and your Lordships' deliverance thereon to be recorded in the Books of Sederunt."

The petitioner referred to the *dicta* of the Lord President in the case of *Forlong Petitioner*, 15th June, 1880, 7 R. 910. But the Court refused the petition as unnecessary, 18th November, 1899. Lord Adam said, "Mr. Robertson has a perfect right to change hisname, and no one can prevent him adding to or altering it. . . . There is nothing to prevent a private individual from changing his name" (37 S.L.R. 82).

It is clear, therefore, that the Court will not grant a petitioner authority to alter his name unless some special reason is shown for it.

Circumstances sufficient to satisfy the Court were adduced in the case of the Rev. Henry Lindsay Johnston (37 S.L.R. 57).

Lord Adam said :—

The petitioner's application is for authority to alter his name. Now, any person in Scotland may, without the authority of the Court, call himself what he pleases, and accordingly when a petition for such a purpose is presented, we are in use to dismiss it as unnecessary, unless sufficient reason is shown for the application. The question, therefore, is whether there is good reason in this case. The reason assigned is that the petitioner's name, as entered in his baptismal Certificate [and in the Register of Births] is Henry Johnston; that he has adopted the name of Henry Lindsay Johnston, and that his name was so entered in the books of the University of Cambridge when he took his degree; that when the petitioner was ordained as a deacon the Bishop of Rochester refused to enter in the petitioner's letters of orders any other name than was contained in his baptismal certificate without evidence that the same had been assumed with authority; that the petitioner is informed that the Bishop will again refuse to insert his adopted name in the letters of orders as priest, and that it is of importance to the petitioner that the name in his letters of orders should be the same as that under which he took his degree.

Now, I have no doubt that the Bishop of Rochester will insert the petitioner's adopted name in his letters of orders, if the petitioner receives the authority of the Court to assume it. We are in use to grant petitions of this kind in the case of notaries and other such persons, and it rather appears to me that we should grant the application. I see no way in which Mr. Johnston can get over the difficulty mentioned in the petition unless we grant the application.

Having set forth, *inter alia*, the fact that the petitioner for some years past had used and been commonly known by the name of Henry Lindsay Johnston, the petition concluded :—

“ May it therefore please your Lordships to authorise the petitioner to assume and use the name of Lindsay in addition to his present name of Henry Johnston, and call and subscribe himself Henry Lindsay Johnston, and to ordain this petition and your Lordships’ deliverance thereon to be recorded in the books of Sederunt.”

The Court granted the prayer of the petition.

A public department, for obvious reasons, will not permit any of its officials to alter his name without its consent. A gentleman in the Inland Revenue service who changed his surname from Mors, to that of his mother, had to obtain permission from a certain date ; the Board of Inland Revenue directed that the altered name should be substituted in the books of the Department ; and the official was then married under the new name.

PAUPER EXTRACTS.

Indicating the nature of the minor charges which may be made in a Registrar’s half-yearly account, payable by the Parish (or Town) Council, section 17 of the 1860 Act, 23 & 24 Vict. cap. 85, concludes :—

Provided also, that where any Search or Extract shall be required by or on behalf of a pauper, the Registrar shall be entitled to include the cost thereof in the account which he is required to render to the Parochial Board under the fiftieth section of the Act first before recited.

The intention is, apparently, that Searches and Extracts required by the Parish Council from their own Registrar shall be paid by them, not as obtained, but at the time of settling his half-yearly account. It seems a rather

wide interpretation to argue that a Parish Council should pay for all Searches and Extracts issued by their Registrar at the request of officials of other Parish Councils.

Accordingly, when an Inspector of Poor who takes the latter view makes a request for an Extract from, say, Dundee, the Registrars reply that the Extract will be sent whenever the usual fee is remitted, as the Dundee Town Council will not pay their Registrars for such service rendered to any Council outside Dundee. The fee is, thus, chargeable against the Council ordering the search and extract,—not against the Council of the parish where the entry is recorded,—and, of course, is payable, generally, out of the assessment not for Registration but for Poor Law.

The Registrar-General has expressed the opinion that a Parish Council ordering a Search and Extract should pay for the same; and, when consulted on the subject, I have of course quoted that opinion; although I am aware that, in some cases, the Parish Council requiring the Search or Extract did not pay, but gave a certificate, and the Registrar charged to his own Parish Council. Such exceptional practice, however, had only the authority of the agreement or acquiescence of the Council concerned (secs. 16 and 17, 23 & 24 Vict. c. 85). In the opinion of the Local Government Board, the view taken by The Registrar-General is the correct one: and that Board so intimated in 1906 by Audit Circular, which now regulates the practice.

In the case of at least one Registrar paid by salary with fees for Searches and Extracts, the Parish Council pays for any Extract it may require; but gives no Search fee, as searches by or on behalf of the Council are expressly covered by the salary. All Searches and Extracts required by other Parish Councils are, in that district, paid for by the Council ordering the same; forming, as already indicated, a charge against Poor Law.

QUALIFICATIONS OF REGISTRAR AND ASSISTANT.

Registrar.—The Parish Council are judges of the qualifications requisite for the office of Registrar (sec. 8).

A Registrar should not, it appears, be a member of the Parish (or Town) Council, which is the statutory patron of the office.

Assistant.—Assistant's appointment may be approved by acting Committee of Council, or (where there is no Parish Council), by the Sheriff (sec. 14).

If the Assistant dies, or departs from the district permanently, or resigns, or is dismissed, or otherwise ceases to be available, that fact should forthwith be reported to the Registrar-General by the Registrar (Regulations, page 8, *a*). Such intimation prevents the possibility of the name of a person appearing on the Lists at the General Registry Office whose services are no longer available.

Form of Appointment.—I, _____ Registrar of the _____ of _____, do, with the approval of the Parish Council [Town Council, Heritors, or Sheriff], given and notified to me on the _____ day of _____ 19____, hereby appoint _____, now dwelling at _____ to act as my Assistant, in case of my illness or unavoidable absence, or of my ceasing (by death or otherwise) to discharge the duties of my office, until the appointment of a successor.

Witness my hand this _____ day of _____ 19____.
_____, Registrar.

The form has to be made out in triplicate: one copy for the person appointed; one to be sent to the approving Council, and the third to the Registrar-General, *without delay*.

With the like approbation, the Registrar may dismiss his Assistant (sec. 14).

“Every Registrar may appoint, by a writing under his hand, a fit person, resident within the Parish or District (not being a female, or a male under sixteen years of age), to act as his Assistant.” So run the statutory regulations framed at the passing of the Registration Act. Nothing is said further as to qualifications. (In England it is required that the Deputy should possess the same qualifications as the Registrar, who “shall be intelligent, active, and not suffering from any infirmity calculated to hinder the efficient performance of his duties. His handwriting shall be distinct and bold.”)

In exceptional instances, where, for example, a Registrar in the absence of an eligible male has desired that his wife or daughter might be allowed to act as Assistant, the Registrar-General has not stood in the way, if there had been obtained the approbation of the Parish Council. (Regulations, pp. 7 and 8.)

In most Registration districts the Assistant acts only, in terms of appointment, during the “unavoidable absence” of the Registrar, on the occasion of his annual holiday, or the like; and in some small districts it is a convenient arrangement when the Parish Minister holds the honorary office of Assistant.

The circumstances of the largest districts call, however, for assistance of a different kind.

Unless an allowance is made by the Town Council for that purpose, in cases where the Registrar is paid chiefly by Fees,

the payment of the Assistant is a personal charge upon the Registrar.

Where the Registrar is remunerated mainly by Salary, it appears expedient, as the generally more equitable course in large districts, that the Council should grant also a salary for an Assistant. In all recent cases, the Town Council of Glasgow fixed a salary for the Assistant.

The abnormal amount of work in the largest districts in Glasgow necessitates the employment of a lad as well as an Assistant. By a commendable (but not statutory) system, both are eligible for promotion—the one to be an Assistant, the other a Registrar; and in this way there is provided a fair supply of skilled Registrars recruited at the lowest rung of the registration ladder.

REGISTER OF NEGLECTED ENTRIES: 1801-1854.

THE Register of Corrected Entries is rather a record of alterations and corrections upon Entries. But the Neglected Entry Register is exactly what its title indicates.

Any Birth, Death, or Marriage which occurred in Scotland may be recorded in the above Register, if it took place between the last day of 1800 and the first day of 1855 (sec. 2, 1860 Act).

The Warrant of the Sheriff of the County is required, and the registration fee is five shillings (*ibid.*).

All productions have to be transmitted, with the Warrant, to the Registrar-General, to be retained; and the Register is kept in the General Registry Office.

In accordance with the privilege granted to Session-Clerks, to possess for thirty years from 1855 the custody of the

Old Parochial Registers, of the period 1820–1854, a copy of any entry made in the Register of Neglected Entries shall be sent to the parish in which the event occurred, if it took place subsequently to the year 1819.

But in 1885 all the old Parochial Registers for 1820–54 were transmitted to the Registrar-General (section 6, 1860 Act). And there does not, therefore, appear to be now much practical use in transmitting the copy of a neglected entry to the parish. For the Registrar is no longer able to give extracts of any events dated before 1st January, 1855.

The following are forms used in cases of Neglected Registration and of Correction of Errors, in the Old Parochial Registers.—Other Forms are added for convenience.

1.—FORM OF PETITION, &C., IN CASE OF NEGLECTED
REGISTRATION IN OLD REGISTERS.

Unto the Honourable the Sheriff of *Perthshire*.

The petition of *George Donaldson, Mason*, residing in
Auchterarder;

HUMBLY SHEWETH,—

That upon the 17th day of *September*, 1853, between the hours of 10 and 11 o'clock P.M., *the wife of the Petitioner, Isabella Newlands or Donaldson*, gave birth to a male child named *George*, at *High Street of Auchterarder*, in the Parish of *Auchterarder* and County of *Perth*. That the Birth of the said child has not been recorded in the old Parochial Registers.

May it therefore please your Lordship, on considering the Petition and the proof to be adduced in support thereof, to grant Warrant to the Registrar-General of Births, Deaths, and Marriages in Scot-

land, to make an entry in the "Register of Neglected Entries," relative to *the birth of the child* above-mentioned, in terms of the 2nd Section of the Act 23 & 24 Vict. cap. 85.

In respect whereof,

GEORGE DONALDSON.

10th January, 1861.

PERTH, 11th January, 1861.

The Sheriff-Substitute appoints intimation of the foregoing Petition and of this Deliverance to be made by notice on the Doors of all the known places of public Worship within the *Parish of Auchterarder* (or by advertisement in the *North British Advertiser and Perth Courier Newspapers*) not less than *fourteen* days before the diet after-mentioned: Further, appoints the Petitioner, along with any persons whose testimony he proposes to adduce in support of the Petition, to attend within the ordinary Sheriff-Court House here, upon the 31st day of *January current*, at *ten o'clock forenoon*, at which time and place the Sheriff will consider the Petition, and hear any interested parties who may appear to oppose it.

HUGH BARCLAY.

At *Perth*, the *Thirty-first* day of *January*, Eighteen hundred and *sixty-one* years:

In presence of *Hugh Barclay, Esq.*, Sheriff-Substitute of *Perthshire*:

Appeared the Petitioner, *George Donaldson*, who produced a Certificate under the hand of *William Moir*, Sheriff-Officer, *Auchterarder* (or copies of the *North British Advertiser and Perth Courier Newspapers*, of date 12th and 15th *January current*, respectively), showing that the foregoing Petition and Deliverance had been duly notified (or advertised).

Compeared *Margaret Butchart, Midwife, residing in Auchterarder, who being solemnly sworn and examined, Depones, That upon the 17th day of September, 1853, between the hours of 10 and 11 o'clock, P.M., and within a house then occupied by the Petitioner in High Street of Auchterarder, his wife was delivered of a male child, which I have reason to believe was named George. All which is truth, as I shall answer to God.*

M. BUTCHART.

HUGH BARCLAY.

Compeared also *Euphemia Ramsay or Newlands, wife of John Newlands, Mason, residing in Auchterarder, who being solemnly sworn and examined, Depones, That I was present in the House then occupied by the Petitioner in High Street of Auchterarder when his wife was delivered of the child mentioned in the Petition. To the best of my recollection, the event occurred on the date and at the time set forth by the Petitioner. All which is truth, as I shall answer to God.*

EUPHEMIA NEWLANDS.

HUGH BARCLAY.

PERTH, 31st January, 1861.

The Sheriff-Substitute, in respect of the foregoing Depositions, and of no appearance being made by any party having interest to oppose the Petition, grants Warrant as craved.

HUGH BARCLAY.

2.—CORRECTION OF ERROR IN OLD REGISTERS.

Unto the Honourable the Sheriff of *Mid-Lothian*.

The Petition of *Patrick Adamson, Writer, residing in Kelso, Son of George Adamson, Writer in Kelso, and Jane Philip or Adamson, his Spouse, both deceased ;*

HUMBLY SHEWETH,—

That in an entry relative to the *Birth of the Petitioner, dated 12th June, 1811, in the old Parochial Register per-*

taining to the Parish of *Kelso*, of which an Extract is produced, *such Birth is stated to have occurred on the 22nd instead of the 2nd day of May in the aforesaid year.*

That the Petitioner has an interest in getting the said Error corrected.

May it therefore please your Lordship, on considering the Petition and the Proof to be adduced in support thereof, to grant Warrant to the Registrar-General of Births, Deaths, and Marriages in Scotland to correct the said Error, in such form and manner as your Lordship may direct, in terms of the 3rd Section of the Act 23 & 24 Vict. c. 85.

In respect whereof,

PAT. ADAMSON.

1st April, 1861.

EDINBURGH, 1st April, 1861.

The Sheriff appoints intimation of the foregoing Petition and of this Deliverance to be made by advertisement in the *North British Advertiser and Kelso Chronicle Newspapers*, and by notice on the Doors of all the known places of Public Worship within the Parish of *Kelso* not less than *fourteen* days before the diet after-mentioned: Further, appoints the Petitioner, along with any persons whose testimony he proposes to adduce in support of the Petition, to appear before him within the ordinary Sheriff-Court House here, upon the 30th day of *April current*, at 10 o'clock forenoon.

JOHN T. GORDON.

At *Edinburgh*, the *Thirtieth* day of *April*, Eighteen hundred and *sixty-one* years.

In presence of *John Thomson Gordon, Esquire, Advocate, Sheriff of Mid-Lothian.*

Appeared the Petitioner, *Patrick Adamson*, who produced copies of the *North British Advertiser and Kelso Chronicle*

Newspapers, of date, 6th and 9th April current, respectively, and also a certificate under the hand of *James Anderson, Sheriff-Officer, Kelso*, showing that the foregoing Petition and Deliverance had been duly advertised and notified.

Compeared *Robert Douglas, Surgeon, Kelso*, who being solemnly sworn and examined, Depones, That *I was present at the Birth of the Petitioner on the 2nd day of May, 1811. I am quite sure the event occurred on that day, as I observe, and now exhibit to the Sheriff, a memorandum made by me at the time relative thereto in my professional Journal.* All which is truth, as I shall answer to God.

ROBT. DOUGLAS.

JOHN T. GORDON.

Compeared also *Mary Scott or Watt, wife of James Watt, Weaver, residing in Dumfries*, who being solemnly sworn and examined, Depones, That *I was a Domestic Servant in the employment of the Father of the Petitioner when he was born on the 2nd day of May, 1811. I am positively certain the event occurred on that day, from the circumstance of my Brother William having been born on the same day.* All which is truth, as I shall answer to God. I further depone that I cannot write, and this is also truth.

JOHN T. GORDON.

EDINBURGH, 30th April, 1861.

The Sheriff, in respect of the foregoing Depositions, authorises the Registrar-General to correct the Error mentioned in the Petition, by inserting the following Note in the margin of the Entry in the old Parochial Register in question :—

For “ 22nd ” substitute 2nd, as authorised by the Sheriff of Mid-Lothian, April 30th, 1861 ; or in any other manner, as the Registrar-General may consider most expedient.

JOHN T. GORDON.

3a. FORM.—CORRECTION OF ERROR IN NEW REGISTERS.

Unto the Honourable the Sheriff of Aberdeen and
Kincardine, the Petition of

HUMBLY SHEWETH,—

That in Entry No. in the Register Book of
for the District of ST. MACHAR, in the of Aberdeen,
for the year Nineteen hundred and , of which an
Extract is herewith produced, the following particulars are,
inter alia, inserted :—

That these particulars are erroneous ; and that the follow-
ing ought to be inserted in lieu thereof in the Register of
Corrected Entries :—

May it therefore please your Lordship, in order to the
correction of the said Entry, to adopt the steps
specified in the 63rd Section of the Act 17 &
18 Victoria, chapter 80, and thereafter to grant
written authority to the Registrar of the above-
mentioned District to make the necessary relative
insertion in his Register of Corrected Entries, as
well as a reference thereto on the margin of the
erroneous Entry, in terms of the Section aforesaid.

ABERDEEN, 19 .

The Sheriff-Substitute having considered the foregoing
Petition and Production, grants Warrant to cite the informant
of the in question, and any other person having
knowledge of, or interested in the effect of the erroneous Entry
referred to in the Petition, to appear before him, within the
ordinary Court House here, on the day of
at o'clock noon, under certification.

ABERDEEN,

19 .

The Sheriff-Substitute having considered the foregoing Petition, Production, and relative Deposition , grants authority to the Registrar of the District of St. Machar to make the following insertion (dated and authenticated by his signature) in his Register of Corrected Entries :—

The above correction is made under the direction and by the written authority of the Sheriff, in consequence of the Deposition (dated) of

Further, authorises the Registrar to make the necessary reference to the correction on the margin of the erroneous Entry.

At Aberdeen, the day of
 Nineteen hundred and years ;
 in presence of Esquire,
 Sheriff-Substitute of Aberdeen and Kincardine :

Appeared

3*b*.—EXAMPLE OF A SOMEWHAT PECULIAR CORRECTION
 IN NEW REGISTER.

Unto the Honourable the Sheriff of Aberdeen and
 Kincardine, the Petition of A. B. ;

HUMBLY SHEWETH,—

That in Entry No. Forty in the Register Book of Marriages for the Parish of Peterhead, in the County of Aberdeen, for

the year Eighteen hundred and ninety-six, of which an Extract is herewith produced, the following is, *inter alia*, inserted :—

In Column 2, the signature Janet Brown.

That this signature is erroneous ; and that the following ought to be inserted in lieu thereof, in the Register of Corrected Entries :—

JANET BROWN THOM.

May it therefore please your Lordship, in order to the correction of the said Entry, to adopt the steps pointed out by the 63rd Section of the Act 17 & 18 Victoria, chapter 80, and thereafter to grant written authority to the Registrar of the above-mentioned District to make the necessary relative insertion in his Register of Corrected Entries, as well as a reference thereto on the margin of the erroneous Entry, in terms of the Section aforesaid.

In respect whereof,

A. B. (*Signature of Petitioner*).

Date.

PETERHEAD, 7th June, 1897.

The Sheriff-Substitute having considered the foregoing Petition, Production and relative Deposition, grants authority to the Registrar of the Parish of Peterhead to make the following insertion (dated and authenticated by his signature) in his Register of Corrected Entries :—

In the Second Column of Entry No. 4 in the Register Book of Marriages for the year 1896, for "Janet Brown" as the signature of the Bride, substitute, as here subscribed:—

(*Signature*) JANET BROWN THOM.

The above correction is made under the direction and by the written authority of the Sheriff, in consequence of the Deposition (dated) of the parties to whose Marriage the entry relates.

Further authorises the Registrar to make the necessary reference to the correction on the margin of the erroneous Entry.

C. D. (*Signature of Sheriff*).

4a.—WARRANT FOR REGISTRATION OF BIRTH AFTER
THREE MONTHS.

At Cupar, the *First* day of *May*, *Eighteen hundred and sixty-one* years :

In presence of *Robert Sutherland Taylor*, Esquire,
Sheriff-Substitute of *Fifeshire* :

Compeared *Robert Matthew, Baker*, residing in *Kirkton*, in the *Parish* of *Markinch*, and *County* of *Fife*, who being examined Declares, That on the *Twenty-third* day of *January*, *Eighteen hundred and sixty-one*, at 2 h. 30 m. A.M. my wife, *Grace Millar or Matthew* (to whom I was married at *Dundee*, on the *Fourth* of *August*, 1854), was delivered, at *Kirkton aforesaid*, of a *fe-male* child, named *Elizabeth*, whose Birth has, through inadvertence, not been registered in terms of the 27th section of the Act 17 & 18 Vict. c. 80. Being now desirous to supply the omission I emit this Declaration in accordance with the provisions of the 31st section of the said Statute.

ROBERT MATTHEW.

R. S. TAYLOR.

CUPAR, 1st May, 1861.

The Sheriff-Substitute having considered the foregoing Declaration, grants authority to the Registrar of the *Parish of Markinch* to record the Birth of the child in question in the Registers for the present year, in terms of the Act referred to in the said Declaration.

R. S. TAYLOR.

4b.—FOR ORDINARY CASES OF BIRTH REGISTRATION BEYOND THREE MONTHS, in several populous Sheriffdoms, the following Form is now adopted, engrossed on the back of an Extract form, containing the particulars to be registered.

At the day of Nineteen hundred
and .

In presence of , Esquire, Sheriff-Substitute of
shire.

Compeared within designed, who, being interrogated, declares that she is the mother of the child within mentioned (*or, as the case may be*), and that the particulars within stated touching the birth of said child are true and correct: and this she declares to be truth.

Signature of Declarant.

Signature of Sheriff.

(*Place and Date.*)

Having considered the above Declaration, Grants Warrant to the Registrar to register the birth of the within-mentioned child.

Signature of Sheriff.

5.—REGISTRATION OF CHILD'S NAME BEYOND SIX MONTHS
AFTER REGISTRATION OF BIRTH.

AYR, 6th August, 1902.

The Sheriff-Substitute of *Ayrshire*, in consequence of a statement submitted to him by *David Kennedy, Blacksmith*,

residing at *Hillhead*, in the *Parish* of *Maybole*, hereby grants authority to the Registrar of the said *Parish* to record the name of the child referred to in the prefixed Certificate, in terms of the Acts 17 & 18 Vict. c. 80, sec. 32 (*or if* Schedule (E) 33), and 23 & 24 Vict. c. 85, sec. 12.

JAMES ROBISON.

NOTE.—The foregoing authority is endorsed, generally, on the back of a Schedule (D) duly completed. The necessary variation (indicated parenthetically) is required when there is no Baptism, and accordingly Schedule (E) is used.

ANOTHER FORM FOR THE ABOVE.

(*Place and Date*).

The Sheriff-Substitute of _____ shire having heard a statement of the circumstances under which the within-mentioned child received a different name in Baptism from that under which it was registered, and having examined upon oath the Father (*or Mother, or Guardian, as the case may be*) of said child, Grants Warrant to the Registrar of _____ District of _____ to enter in the Register of Corrected Entries the name given in Baptism, all in terms of the Statutes.

A third Form is as follows :—

ABERDEEN, 30th April, 1905.

The Sheriff-Substitute of Aberdeen, Kincardine, and Banff, in consequence of a statement submitted to him by A. B., Farm Servant, Mains, Pitcaple, the Father of the child within mentioned, hereby grants authority to the Registrar of the parish of Meldrum to record the name of the said child referred to in the within Certificate, in terms of the Acts, 17 & 18 Vict. c. 80, sec. 32, and 23 & 24 Vict. c. 85, sec. 12.

(Signed) DUN. ROBERTSON.

6.—LEGITIMATION *Per subsequens matrimonium* FORM
OF PETITION TO THE SHERIFF.

Unto the Honourable the Sheriff of Lanarkshire.

The Petition of W S , Marine Engineer,
and A H or S his spouse, both residing
at , Glasgow ;

HUMBLY SHEWETH,—

That upon the 18th day of April, 1902, the Female Petitioner was delivered of an Illegitimate female child of which the male Petitioner is the Father.

That the Birth was recorded on the 9th day of May following, on the information of the Female Petitioner under Entry No. 997 in the Birth Register of the District of M , G , for the year 1902, the child having been described as A S H .

That the Petitioners were married on the 6th day of June, 1902, as set forth in the Extract herewith produced ; but as the paternity of the said child is not registered as acknowledged, or as determined by Decree of Court, the present application becomes necessary.

That the Male Petitioner acknowledges the paternity of said female child and desires the Birth Register to be amended conform to Extract of Marriage herewith produced.

May it therefore please your Lordship to authorise the Registrar of the above-mentioned District to insert, in his Register of Corrected Entries, a note relative to the Legitimation of the child *per subsequens matrimonium*, together with the date of the Registration of the said Marriage, and also to make a reference thereto on the margin of the

FURTHER NOTES AND FRESH FORMS.

LEGITIMATION.

IN a case of legitimation by subsequent marriage where the father signed the Birth Register, or where the paternity has been found by Decree of Court, the Registrar may make the insertion, Example No. 4, in the Register of Corrected Entries upon the request of the parents and the production of an Extract of their Marriage (Regulations for Registrars, pages 15, 16, and 28).

Intimation.—No publicity is required in those cases where the insertion can be made solely on the authority of the Extract of Marriage. But the cases of Legitimation *per subsequens matrimonium* requiring the authority of the Sheriff and of the Marriage Extract are upon a different footing.

Where the paternity has not been acknowledged by the father signing the Register nor found by Decree, section 36 enounces that “the Registrar shall not note any such Legitimation or Marriage opposite to the Entry of the Birth of such child unless authorised so to do by Warrant of the Sheriff granted upon the joint application of both parents, *of which Intimation shall be made as such Sheriff may direct*, and after due Inquiry, and hearing any Parties having Interest who may appear to oppose such Application.”

The necessity for such procedure is obvious; for there is nothing in the Birth Register to connect the husband with the child whose Legitimation is desiderated.

Mode.—The practice in regard to the mode of Intimation varies somewhat in detail.

At one time, hand-bills, placed upon Church doors, and the like, were used. Advertisements in suitable newspapers, and, occasionally, the exhibition of the Petition for (say) seven or fourteen days in the Registrar's Office, are other methods directed by certain Sheriffs.

It appears, in short, that the Sheriff is wont to make such intimation as he may consider best in the special circumstances of each case. He may be influenced by the lapse of time since the birth: more intimation and inquiry being in some cases deemed necessary when there are many years between the date of the Birth and the date of the application for Warrant to record Legitimation. The object of the provision as to intimation is, obviously, to prevent mistake or fraud: but in such a case of error an insertion as to Legitimation would not be conclusive.

A remit to, and a brief report by, the Registrar of the District wherein the child's Birth is recorded, constitute sufficient intimation in some cases. Sheriffs now generally so direct: sometimes also, if deemed necessary or expedient, they require that notice of the Application be sent to those persons *sui juris*, who, through their relationship, are entitled to guard their own interests against the possibility of any mistake, or of any attempt to deceive. Such notice sometimes takes the form of posting to such interested persons, by registered letter, a copy of the Petition.

The Sheriff may examine persons having knowledge of the Petitioners and of the child to be legitimated.

In this connection it may be observed that the practice in France of requiring natural children to be acknowledged before or at the marriage (they cannot be acknowledged after) lessens temptation in cases of, say, childless marriage. But the only case in Scotland within my knowledge where false Legitimation was contemplated arose owing to sheer

ignorance of the conditions of Legitimation, the husband imagining that marriage itself with the mother made him the father of her illegitimate child.

One reason why Sheriffs now, in common cases, frequently adopt the method of simple remit to the Registrar is because that mode of intimation has the advantage of not deterring parents who might shrink from the step if it involved much publicity from following the procedure required for recording Legitimation.

FRESH FORM OF PETITION.

To Grant warrant to and authorise the Registrar of Births, &c., for the St. Peter District of Dundee, upon production to him of an Extract of the Marriage of the pursuers in the Register of Marriages, to make a relative insertion in his Register of Corrected Entries, and to note on the margin of the Register of Births for the said District of St. Peter, opposite to the entry of the birth of the female pursuer's child, John Smith, forming Entry No. 63 in said Register for the year 1905, its legitimation by the subsequent marriage of the pursuers on 7th April, 1905, and the date of the registration of such marriage.

Condescence.

The pursuers—birth of child—registration of it—the male pursuer the father—circumstances explaining this—the marriage of the parties—registration thereof.

Plea in Law.

The pursuers being the parents of the said child, and they having been now married, they are entitled to have the correction made, authorised by the Statute in such circumstances.

Deliverances by the Sheriff are generally in the following terms :—

(1.) (*Place and date.*)—Having considered the foregoing Petition [*for Form vide supra*], before answer, Appoints the same to be intimated to the Registrar of (*the District in which the Birth is registered*), and him, after due inquiry, to report whether he is satisfied that the Entry of Birth in question applies to the child of the female Petitioner ; whether the Marriage Entry, of which an Extract is produced, applies to the Petitioners ; and whether there is any reason to doubt that the male Petitioner is the father of the child in question.

(*Signature of Sheriff.*)

(2.) (*Place and date.*)—Having resumed consideration of the foregoing Petition and productions, and considered the above Report, and having examined on oath the Petitioners, who deponed to the verity of what is set forth in the Petition, Grants warrant as craved.

(*Signature of Sheriff.*)

NOTE.—Legitimation *per subsequens matrimonium* was strictly confined by Roman Law to the offspring of concubinage, and did not extend to bastards in general (see “Legitimation : Warrant of the Sheriff,” Chapter I.). Its purpose was thus primarily to encourage persons living in the inferior state of marriage called “concubinage” to contract lawful marriage.

Under the Canon Law, however, the privilege of legitimacy was conferred on all bastards when their parents afterwards married, provided the father and the mother were capable of contracting marriage at the date of the child’s conception. And the Law of Scotland has followed, generally, the rule of the Canon Law : the parents must have been at the time when the child was conceived in a position lawfully to marry each other, and continued to be so till they married ; a marriage between being in the nature of a mid impediment :

and, accordingly, it would appear that the offspring of an incestuous or an adulterous connection are excluded from the clear privilege of Legitimation,—the principle resting, very obviously, upon the grounds of morality and of justice.

The subject, however, is not free from difficulty; some authorities maintaining the opinion that it may be sufficient to secure Legitimation if the parents were in a position lawfully to marry at the date of the child's birth. In France, a child conceived in adultery cannot, it is understood, be legitimated.

The Sheriff's Warrant must be delivered to the Registrar of the District where the Birth of the child has been recorded, with an Extract of the parents' marriage.

The Warrant and the Marriage Extract are retained by the Registrar, and produced at the annual inspection to the District Examiner, by whom they are transmitted to the Registrar-General.

The Registrar makes an insertion as in Example No. 5, prefixed to the Register of Corrected Entries, and a marginal reference as shown in Example No. 8, prefixed to the Register of Births. It being then on record that the child is entitled legally to use the father's surname, the Birth Entry should, for the sake of ready reference, be indexed also under that surname.

In granting an Extract subsequently of the Birth of a child whose Legitimation is recorded, such Extract must be of *the original Entry as it stands in the Birth Register*; and the insertion in the Register of Corrected Entries relative to the child's Legitimation must be copied on the back of such Extract (see Regulations, p. 28, *b*). The recording of the Legitimation does not authorise the omission of the word "(Illegitimate)" from an Extract of the Birth Entry.

LEGITIMATION : FORM WITH PUBLICATION IN
REGISTRAR'S OFFICE.

Unto the Honourable the Sheriff of Fife and Kinross at Cupar.

The Petition of *John Keddie, Baker*, and *Mrs. Eliza White Hooper or Keddie, his spouse*, both residing at 294 *High Street, Kirkcaldy* ;

HUMBLY SHEWETH,—

That upon the 12th day of October, 1898, the female Petitioner was delivered of an illegitimate female child of which the male Petitioner is the Father.

That the birth was recorded on the 12th day of November following, on the information of the female Petitioner under Entry No. 124 in the Birth Register of the District of Wemyss, in the County of Fife, for the year 1898, the child having been described as Helen Gibson Hooper.

That the Petitioners were married on the 16th day of June, 1899, at Nether Street, Pathhead, Kirkcaldy, and the Marriage duly registered in the Register of Marriages for the District of Dysart, in the County of Fife, on 19th June, 1899, as set forth in the Extract produced herewith : but as the paternity of the said child is not registered as acknowledged, or as determined by Decree of Court, the present application becomes necessary.

That the male Petitioner acknowledges the paternity of said female child, and desires the Birth Register to be amended conform to Extract of Marriage herewith produced.

May it therefore please your Lordship to authorise the Registrar of the above-mentioned District of Wemyss to insert in his Register of Corrected Entries a note relative to the legitimation of the child *per subsequens matrimonium*, together with the date of the Registration of the said Marriage,

and also to make a reference thereto on the margin of the Entry in the Birth Register, in terms of the Acts 17 & 18 Vict. c. 80, sec. 36, and 23 & 24 Vict. c. 85, sec. 13.

In respect whereof,

(Signed) JOHN KEDDIE.

(„) E. W. KEDDIE.

18th April, 1904.

CUPAR, 19th April, 1904.

The Sheriff-Substitute, having considered the foregoing petition, appoints intimation thereof to be made by affixing a copy of the same, and of this interlocutor upon a conspicuous place of the office of the Registrar of the District of Wemyss for the period of fourteen days, under certification that if no objections thereto are lodged with the Sheriff-Clerk at Cupar within three days after the expiry of the said period, the prayer of the petition will be granted.

S. B. ARMOUR.

PETITION FOR WARRANT TO REGISTER NEGLECTED ENTRY.

Newer Style of Form.

In the Sheriff Court of _____ at _____.

A. B. [*designation*], Petitioner.

The above-named petitioner submits to the Court the condescence and note of plea in law hereto annexed, and prays the Court—

To grant warrant to the Registrar-General of Births, Deaths, and Marriages in Scotland, to make an entry in the Register of Neglected Entries of the death of C. B., the petitioner's elder brother, as condescended on.

Condescendence.

1. The petitioner is the son of D. B. (*designation*), and M. W. or B., his wife, and was born at X., in the parish of Y. and county of Z. on 19 . The said C. B. was the elder brother of the petitioner [and the only other child of the said D. B.], and was born at X., aforesaid, on or about , 19 .

2. The said C. B. died on 19 , between the hours of and o'clock P.M., as the petitioner believes from (*cause of death*). The petitioner, who was then years of age, was present at the death, as were also (*any other persons, stating whether alive or dead*). The said C. B. was not attended by any medical practitioner during his last illness.

3. The said C. B.'s death was not registered, his parents not being aware, as the petitioner believes, of the necessity for so doing.

4. The petitioner now desires to have the death of the said C. B. entered in the Register of Neglected Entries, in terms of Section 2 of the Registration of Births, Deaths, and Marriages Act, 1860.

Plea in Law.

The death of the said C. B. not having been registered the petitioner is entitled to have an entry thereof made in the Register of Neglected Entries, in terms of the Statute thereanent.

In respect whereof,

PETITION FOR CORRECTION IN NEW REGISTERS.

In the Sheriff Court of at .

A. B. (*designation*), petitioner.

The above-named petitioner submits to the Court the condescendence and note of plea in law hereto annexed, and prays the Court—

To grant warrant to the Registrar of the parish of X., in the County of Y., to make an entry in the Register of Corrected Entries for the said parish relative to the death of the deceased David B. (*designation*), as condescended on, as also to insert a reference on the margin of the entry of said death in the Register of the said District for the year .

Condescence.

1. The said David B. was the petitioner's uncle, and died at on (*place and date*).

2. The petitioner registered the death on (*date*), with the Registrar of X. In the Schedule of "Questions to be answered by the Informant of a Death" for Registration, he stated that his uncle's name was Daniel, that being the name by which he had always heard him called.

3. Since then the petitioner has been informed that his uncle's Christian name was David [and he has procured an extract of his birth which states his name to be David]. In these circumstances, the petitioner desires to have the entry of his uncle's death in the Register of Deaths of the parish of X. corrected in Column one thereof, as provided for by section 63 of the Act, 17 & 18 Vict. c. 80.

Plea in Law.

The Entry of the said David B.'s death in the said Register being erroneous as condescended on, the petitioner is entitled to have it corrected in terms of the Statute thereanent.

In respect whereof,

CORRECTION OF SPELLING OF SURNAME IN SEVERAL
PLACES.

Unto the Honourable the Sheriff of Forfarshire.

The Petition of *Samuel Sidonia*, Fabricante de Diamants,
residing at No. 2 Rue Van Dyck, Antwerp, Belgium,

HUMBLY SHEWETH,—

That in Entry No. 192 in the Register Book of Marriages for the District of St. Andrew in the Burgh of Dundee for the year 1878, of which an Extract is herewith produced, the following particular is, *inter alia*, inserted :—

In Column 2 the signature of the surname *Sidony*, and in Column 5, the surname of the parents *Sidony* (twice).

That this particular is erroneous, and that *Sidonia* ought to be inserted in lieu thereof in the Register of Corrected Entries.

May it therefore please your Lordship to adopt the steps pointed out by the 63rd sect. of the Act 17 & 18 Vict. c. 80, and thereafter to grant written authority to the Registrar of the above-mentioned District to make the necessary relative insertion in his Register of Corrected Entries as well as a reference thereto on the margin of the erroneous Entry, in terms of the section aforesaid.

In respect whereof,

(Signed) SAMUEL SIDONIA.

14th April, 1904.

DUNDEE, 20th April, 1904.

The Sheriff-Substitute, having considered the foregoing Petition, grants commission to His Britannic Majesty's Consul at Antwerp to take the Deposition of the Petitioner, which is to be reported *quam primum*.

(Signed) ROBERT SMITH.

At Antwerp, the 22nd day of April Nineteen Hundred and Four years:

In presence of Edward Cecil Hertslet, His Britannic Majesty's Consul-General:

Compeared Samuel Sidonia, the Petitioner, who, being solemnly sworn and examined, depones—

At my marriage in Dundee, Scotland, in 1878, I signed my surname as *Sidony* in the Schedule, and I see that the surname of my parents is given also as *Sidony*. I have since discovered that the correct spelling of my family surname is *Sidonia*, and that in so signing I acted erroneously. I desire the Entry corrected accordingly. All which is truth as I shall answer to God.

(Signed) S. SIDONIA.

Here the Stamp and
the Consular Seal
were affixed.

(Signed) E. CECIL HERTSLET,
H.B.M.'s Consul-General.

DUNDEE, 25th April, 1904.

The Sheriff-Substitute, having considered the foregoing Petition and Relative Production and Deposition, grants authority as craved.

(Signed) ROBERT WALKER.

NOTE.—In such a case as the foregoing, the Petitioner should, where possible, attend at the Registrar's Office, and sign the insertion in the Register of Corrected Entries.

CHILD REGISTERED AS LEGITIMATE BUT FOUND
TO BE ILLEGITIMATE:

When Mother the Informant.

The following Warrant may be granted on a Verbal Application:—

(Place and date.)

The Sheriff-Substitute of shire, having examined upon oath (*name and designation*) the Informant of the Birth of her child recorded in the Entry No. of the Register Book of Births for the District of , in the Burgh of Glasgow [as also (*name and designation*)], who now acknowledges himself as the Father of the said child], and Registrar of the said District, who made said Entry, and having seen an Extract thereof, Finds that said Entry has been erroneously made by the Informant, in so far as the said child has been registered as the legitimate child of the said , who is made to appear to have been the wife of the said (*name of putative father*), and who signed her name as , whereas the said child is illegitimate. Therefore grants warrant to the Registrar of the said District, to make in the prescribed form an Entry in the Register of Corrected Entries relative to said Entry No. to the following effect, viz. :—

In Column one for “Sinclair” substitute *Scott*, and insert the word (Illegitimate). Cancel the contents of Column four and substitute *Ann Scott*, Housekeeper, and in Column five for “Sinclair” substitute *Scott*.

The foregoing Form is suitable where the Informant of the Birth of the child is the Mother.

Cases have occurred where the Father of a Child, afterwards alleged to be Illegitimate, has registered it as Legitimate, entering the Mother as his Wife [giving date and place of Marriage]. This being an important acknowledgment, although not necessarily conclusive proof of a Marriage, the Sheriffs in Glasgow (Note on p. 324 of Sellar’s “Book of Forms”) have usually declined to authorise any correction of such Entries.

ILLEGITIMATE REGISTERED AS LEGITIMATE.

Unto the Honourable, The Sheriff of Aberdeen,
Kincardine, and Banff, the Petition of *Margaret
Jane Robertson or Milne, Fishworker, 53 Kirk
Street, Peterhead.*

HUMBLY SHEWETH,—

That in Entry No. 187 in the Register Book of Births for the District of Peterhead, in the County of Aberdeen, for the year 1903 (made on the information of the Petitioner), of which an Extract is herewith produced, the following particulars are, *inter alia*, inserted:—

In Column (1) “Edith Wilson Milne.” In Column (4) “James Milne, Cartwright,” as Father of the Child. That these particulars are erroneous, the said James Milne having become an inmate of the Buchan Combination Poorhouse, Maud, on 26th February, 1902, being about fifteen months before the Birth of the said Child; and that the Petitioner has had no personal communication with him since he was removed there, she having lived in Peterhead; and that, as she now depones, he is not the Father of the Child.

May it therefore please your Lordship, in order to the correction of the said Entry, to adopt the steps specified in the 63rd Section of the Act 17 & 18 *Victoriæ*, caput 80, and thereafter to grant written authority to the Registrar of the above mentioned District to make the necessary relative insertion in his Register of Corrected Entries, as well as a reference thereto on the margin of the erroneous Entry, in terms of the Section aforesaid.

In witness whereof,

(Signed) MARGARET JANE ROBERTSON OR MILNE.

her X mark

(Signed) THOMAS MACKIE, S.C.D., Peterhead,

Witness.

Compeared the said Margaret Jane Robertson or Milne, who, being solemnly sworn and examined, Depones that the information contained in the foregoing Petition is correct, and that she cannot write.

(*Signature of Sheriff*) J. HENDERSON BEGG.

PETERHEAD, 12th May, 1905.

The Sheriff-Substitute having considered the foregoing Petition, Production, and relative Deposition, grants Warrant to the Registrar of Peterhead District to make the following insertion (dated and authenticated by his signature) in his "Register of Corrected Entries":—

In the First Column of Entry No. 187 in the Register-Book of Births for the year 1903, for the child's name insert *Edith Wilson Robertson or Milne*, and for the contents of Column 4 substitute Margaret Jane Robertson or Milne, Fish-worker, wife of James Milne, Cartwright, now an inmate of the Buchan Combination Poorhouse, who, she declares, is not the father of the child; and, further, that she has had no personal communication with him since February, 1902.

Further, authorises the Registrar to make the necessary reference to the Correction on the margin of the erroneous Entry.

(*Signature of Sheriff*) J. HENDERSON BEGG.

Eo die.—Dispenses with the Court Dues.

(*Signed*) J. HENDERSON BEGG.

Form of Insertion in Reg. Cor. Ents. relative to foregoing:—

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Register of Corrected Entries for the
District of Peterhead in the County of Aberdeen.

In the First Column of Entry No. 187 in the Register Book of Births for the year 1903 for "Edith Wilson Milne"

substitute *Edith Wilson Robertson or Milne*, and for the Contents of Column Four, substitute *Margaret Jane Robertson or Milne, Fishworker, wife of James Milne, Cartwright*, now an inmate of the Buchan Combination Poorhouse, who, she declares, is not the Father of the Child ; and, further, that she has had no personal communication with him since February, 1902.

The above alteration is made under the direction, and by the written authority of the Sheriff, in consequence of the Deposition (dated 12th May, 1905) of Margaret Jane Robertson or Milne, above mentioned, the informant of the birth, and Mother of the Child to which the said Entry relates.

JOHN MORRICE, *Registrar*.

PETERHEAD, 12th May, 1905.

CASE OF FALSE INFORMATION AND CONVICTION.

Unto the Honourable, the Sheriff of Aberdeen, Kincardine, and Banff, the Petition of *Mary Shearer, formerly Mary Shearer or Mutch*, 56 Low Street, New Pitsligo.

HUMBLY SHEWETH,—

That in Entry No. 41 in the Register Book of Births for the District of New Pitsligo, in the County of Aberdeen for the year 1904 (made on the information of the Petitioner), of which an Extract is herewith produced, the following particulars are, *inter alia*, inserted :—" In Col. (1) Alexander Morrison Mutch. In Col. (4) John Mutch, Ploughman, as father of the Child." That these particulars are false, as set forth in the annexed Extract Sentence, dated 15th February, 1905, against the said Mary Shearer for causing a false Entry to be made ; the said John Mutch having ceased to live with her for more than a year before the date

of birth of the said Child, and that, as she now depones, he is not the father of the Child.

May it therefore please your Lordship, in order to the correction of the said Entry, to adopt the steps specified in the 63rd Section of the Act 17 & 18 Victoriæ, Caput 80, and thereafter to grant written authority to the Registrar of the above-mentioned District to make the necessary relative insertion in his Register of Corrected Entries, as well as a reference thereto on the margin of the false Entry in terms of the section aforesaid.

In witness whereof,

(Signed) MARY SHEARER or MUTCH.

Compeared the said Mary Shearer, who, being solemnly sworn and examined, depones that the information contained in the foregoing Petition is correct.

(Signed) MARY SHEARER or MUTCH.
J. HENDERSON BEGG.

PETERHEAD, 16th June, 1905.

The Sheriff-Substitute having considered the foregoing Petition, Productions, and relative Deposition, grants authority to the Registrar of New Pitsligo Parish to make the following insertion (dated and authenticated by his Signature of the Register of Corrected Entries :—

“In the First Column of Entry No. 41 in the Register Book of Births for the year 1904 for the Child’s name insert :—Alexander Morrison Shearer or Mutch, and for the contents of Column Four substitute Mary Shearer, wife of John Mutch, Ploughman, who, she declares, is not the father of the Child ; he having ceased to live with her for more than a year before the date of the birth.”

Further authorises the Registrar to make the necessary

reference to the correction on the margin of the False Entry.

(Signed) J. HENDERSON BEGG.

Relative Insertion in Reg. Cor. for Ents. :—

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Register of Corrected Entries for the District of New Pitsligo, in the County of Aberdeen.

In the First Column of Entry No. 41 in the Register Book of Births for the year 1904, for the Child's name insert *Alexander Morrison Shearer or Mutch*, and for the contents of Column Four substitute *Mary Shearer, wife of John Mutch, Ploughman, who, she declares, is not the father of the Child ; he having ceased to live with her for more than a year before the date of the birth.*

The above alteration is made under the direction and by the written authority of the Sheriff in consequence of the Deposition (dated 16th June, 1905) of Mary Shearer, above-mentioned, the informant of the birth, and mother of the Child to which the said Entry relates.

GEO. MATTHEW, *Registrar.*

NEW PITSLIGO, 28th July, 1905.

CANCELLATION OF BIRTH ENTRY MADE IN BOOKS OF
WRONG REGISTRATION DISTRICT, AND RE-REGISTRATION.

This Warrant may be granted upon a Verbal Application.

(Place and date.)

The Sheriff-Substitute of shire having examined upon oath (*name and designation*), the Informant for the Entry of the Birth of (*name*), forming No. of the Register of Births for the District of , for the

year , as also Registrar of said District, who made the said Entry, and having seen an Extract thereof, Finds that said Birth took place at Street, which is in the Registration District, and not in the said District: Therefore grants warrant to the Registrar of said last-mentioned District to make, in conformity with the Regulations for Registrars, an Entry in the Register of Corrected Entries, cancelling the whole of said Entry No. , as having been made illegally, and appoints the parties (*or* the Informant) to register said Birth in the books of the proper District.

NOTE.—In some cases, the Registrar-General allows such an Entry, as the above referred to, to be cancelled by the Examiner upon production of an Extract of the Entry as recorded in the proper District.

CANCELLATION OF BIRTH AND DEATH ENTRY—CHILD BEING STILL-BORN.

Unto the Honourable the Sheriff of Forfarshire.

The Petition of *James Murray*, Registrar of Births, &c., for the District of St. Andrew, Dundee.

HUMBLY SHEWETH,—

That Entry No. 940 in the Register Book of Births, and Entry No. 791 in the Register Book of Deaths for the District of St. Andrew, in the Burgh of Dundee, both for the year 1904, of which Extracts are herewith produced, are erroneous, and ought therefore to be cancelled.

May it therefore please your Lordship to adopt the steps pointed out by the 63rd Sect. of the Act 17 & 18 Vict. cap. 80, and thereafter to grant written authority to the Petitioner to make the necessary relative insertion in his Register of

Corrected Entries, as well as a reference thereto on the margins of the Erroneous Entries, in terms of the Section aforesaid.

In respect whereof,

(Signed) JAS. MURRAY.

17th August, 1904.

At Dundee, the Seventeenth day of August, Nineteen Hundred and Four years :

In presence of Robert Smith, Esquire, Sheriff-Substitute of Forfarshire :

Compeared James Murray, the Petitioner, who, being solemnly sworn and examined, depones :—On 18th July last Andrew Harley, Flesher, residing at 36 Dundonald Street, Dundee, came to my office and gave information to the effect that that morning his wife had given birth to a living child, which died fifteen minutes after it was born. The birth and the death were accordingly registered by me, but when I sent to Dr. M'Houl, who was in attendance at the confinement, for the usual Medical Certificate, I received from him the Certificate which I now produce, and which is to the effect that the child of which Mrs. Harley was delivered on the date in question was still-born. Since then, and acting on the instruction of the Registrar-General, I have interrogated both Dr. M'Houl and Andrew Harley on the subject, and am satisfied that the said child never breathed. All which is truth, as I shall answer to God.

(Signed) JAS. MURRAY.

(„) ROBERT SMITH.

DUNDEE, 17th August, 1904.

The Sheriff-Substitute, having considered the foregoing Petition, Productions, and relative Deposition, grants authority as craved.

(Signed) ROBERT SMITH.

The following is the form of insertion relative to the foregoing in the Register of Corrected Entries.

Cancel Entry No. 940 in the Register Book of Births, and also Entry No. 791 in the Register Book of Deaths, both for the year 1904.

The above cancellations are made under the direction and by the written authority of the Sheriff in consequence of the Deposition (dated August 17th, 1904) of James Murray, Registrar of this District.

(Signed) JAS. MURRAY, *Registrar.*

1904, *August 17th*, at Dundee.

CASE OF FICTITIOUS ENTRY.

GLASGOW, *4th April*, 1883.

The Sheriff-Substitute of Lanarkshire, having received information from the Registrar of the District of Milton, in the Burgh of Glasgow, that there is a false or fictitious entry in the Register of Deaths for said District, forming No. 767 for the year 1883, and that P. O., who was the Informant for said Entry, is at present in the Prison of Glasgow under a conviction for having given information for said false or fictitious Entry, Grants commission to the Sheriff-Clerk of Lanarkshire, or any of his Deputes, to take the examination of the said P. O. regarding said Entry, and to report.

(Signed) (*Signature of Sheriff.*)

GLASGOW, *6th April*, 1883.

The Sheriff-Substitute, having considered the above examination taken on commission of P. O., Informant for the Entry No. 767 of the Register of Deaths for the Milton Registration District, and having examined upon Oath Alexander Dewar, Registrar for said District, and seen the

following effect, viz.:—For the contents of Column one substitute “William John Brown or Smith”; and for the contents of Column four substitute “Jane Brown, domestic servant, wife of John Smith, private, Royal Marines, who, she declares, is not the father of said child; and further, that she has had no personal communication with him since November, 1876.”

FORM FOR PETITION FOR DIVISION OF PARISH.

To divide the parish of _____ into two districts for the purposes of the Act 17 & 18 Vict. cap. 80, and Acts amending the same; to fix the distinctive name by which each of such districts shall be called for said purposes; and to declare that for the purposes of said Acts each of said two districts shall be held to be a separate parish.

Condescendence.

Parish Council or Town Council (petitioners); extent of parish; lack of railway or other travelling facilities, and increase of population: hence expedient to divide; and division suggested.

Plea in Law.

It being expedient in the interests of the inhabitants of said parish, and having regard to their increase, reasonable, that the said parish should be divided, warrant should be granted accordingly.

PETITION FOR APPOINTMENT OF *INTERIM* REGISTRAR.

To appoint an *Interim* Registrar of Births, Deaths, and Marriages, for the western district of the parish of Ardnamurchan, until a permanent appointment shall be made by the proper authorities.

Condescendence.

The Registrar died on _____, and had not appointed an assistant registrar; it is therefore necessary to make an appointment in terms of Section 12 of the Act 17 & 18 Vict. cap. 80.

Plea in Law.

In respect that through the death of the Registrar there is no one to discharge his duties, a suitable person ought to be appointed *ad interim*, pending the election of a Registrar by the proper authorities.

A FORM OF APPOINTMENT OF *INTERIM* REGISTRAR.

In the Sheriff Court of Aberdeen, Kincardine, and Banff, at Peterhead.

Interlocutor, in the Petition by the Provost, Magistrates, and Councillors of the Burgh of Peterhead for Appointment of *Interim* Registrar for the District of Peterhead.

PETERHEAD, 15th June, 1904.

The Sheriff-Substitute, having considered the foregoing Petition, appoints John Morrice, Assistant Registrar, to be *Interim* Registrar of Births, Deaths, and Marriages for the District of Peterhead, in the County of Aberdeen, until a permanent appointment be made by the proper authorities; and directs the Clerk of Court to intimate this appointment in writing to the Registrar-General.

(Signed) JOHN SMITH.

PETITION FOR APPOINTMENT OF *INTERIM* REGISTRAR.

Where the late Registrar was also Schoolmaster, and it is necessary to delay the Permanent Appointment (ss. 12 and 9 of 17 & 18 Vict. c. 80).

In the Sheriff Court of _____ at _____.

The Parish Council of the Parish of X., Petitioners.

The above-named petitioners submit to the Court the

condescendence and note of pleas in law hereto annexed, and pray the Court

To appoint (*name and designation*), or such other person as to the Court shall seem proper, to be *Interim* Registrar for the parish of X., and to postpone the election of a Registrar for the said parish for (*a period not exceeding*) four months from (*date of demission of office of last Registrar*).

Condescendence.

1. A. B., Schoolmaster, X., died thereon (*date*). At the time of his death he held the office of Registrar of Births, Deaths, and Marriages for the parish of X., and the said appointment is now therefore vacant.

2. It has been usual in the said parish for the appointment of Registrar to be held by the schoolmaster for the time, and the petitioners believe that the said practice will be continued. It is, however, unlikely that the post of schoolmaster can be filled up before the expiry of at least months, and accordingly the petitioners desire the consent of the Court to the postponement of the election of a Registrar for months from the said (*date*), under the powers conferred on the Court by the Registration of Births, Deaths, and Marriages Act, 1854, section 9.

3. Meantime, until a new appointment can be made to the said vacant office of Registrar, the petitioners find it necessary to apply to the Court to appoint an *Interim* Registrar under and in terms of section 12 of the aforesaid Act of Parliament. The petitioners respectfully suggest (*name and designation*) as a suitable person for the said appointment.

Pleas in Law.

1. The office of Registrar of the parish of X. being now vacant, an *Interim* Registrar should be appointed in terms of the Statute.

2. The deceased Registrar having been a schoolmaster, the election of a successor to him may, in terms of the Statute, be postponed for a period not exceeding four months until the election of a successor as schoolmaster.

In respect whereof,

PETITION FOR REMOVAL OF REGISTRAR.

Note.—If the Town (or Parish) Council neglect to apply for the removal of an incompetent Registrar, the Registrar-General may himself, should he think fit, make the application to the Sheriff (18 Vict. cap. 29, s. 2).

To find that the defender has failed, or neglected, or refused to discharge the duties of his office of Registrar of Births, Deaths, and Marriages for the St. James district of Dundee [or is unfit or incompetent to discharge such duties]; to remove the defender from his said office; as also to appoint an *Interim* Registrar for said district until a permanent appointment shall be made by the proper authorities; and to find the defender liable in expenses in the event of his offering opposition hereto.

Condescendence.

Pursuers (the Town Council) elected defender on _____, Complaints made regarding him, and inconvenience caused to the public by his failure to fulfil his duties [efficiently].

Plea in Law.

The defender having failed, or neglected, or refused, to fulfil his duties, whereby the interests of the community are suffering, warrant ought to be granted for his removal.

Note.—Interim Registrar.—An Assistant, in terms of his appointment, can act during the illness, or even after the death of the Registrar who appointed him. Special cases have occurred, however, where, owing to the prolonged illness of the Registrar, it has been considered necessary, although there was an Assistant, to appoint an *Interim Registrar*. These rare cases arose in large districts, such as Canongate and St. Giles, where the work is heavy; and the circumstances are generally such as those indicated in the following Form :—

SPECIAL CASE OF APPOINTMENT OF *INTERIM* REGISTRAR
DURING ILLNESS OF THE REGISTRAR.

(*Place and date.*)

The Sheriff-Substitute having considered the foregoing Petition, with Medical Certificate therein referred to, in respect the Petitioner, from illness, is, for the time being, unable to discharge any of the duties of his office of Registrar of the district of , and in respect, although he has an Assistant who may act during his absence or illness, said Assistant is unable to do the whole work, and there is no authority to appoint a second Assistant; and seeing that there is thus, at present, such a deficiency as virtually amounts to a temporary vacancy in the office of Registrar, and as can only be made good by the appointment of an *Interim Registrar* who will have power to nominate an Assistant, appoints Mr. , presently Assistant Registrar of said district, to be *Interim Registrar* thereof until the Petitioner shall be able to resume his duties, or until some permanent provision be made for filling the office.

A Short Form of Appointment of *Interim Registrar* is printed on page 267, *infra*.

PETITIONS FOR ANNEXATION.

Infectious Diseases Hospitals are being erected in many parts of Scotland. These buildings are placed generally near the boundaries of districts.

The City of Edinburgh Epidemic Hospital is situated outwith the city boundary. A Petition was presented to the Sheriff by the Corporation to have the Hospital annexed for Registration purposes to the district of Morningside. The Parish Council of Colinton objected to the disjoining of the area from Colinton Registration District. It was intimated by the Counsel for the City that the Registrar-General offered no objection, and the annexation was sanctioned by the Sheriff.

About 150 deaths are estimated to occur yearly in the Hospital. The following copy of the relative Notice and of the Sheriff's Note in the case indicate the reasons which rendered the annexation desirable for the sake principally of public convenience :—

PUBLIC NOTICE REFERRED TO :

Registration of Births, Deaths, and Marriages (Scotland)
Acts, 1854 to 1860.

NOTICE.

The Lord Provost, Magistrates, and Council of the City of Edinburgh have presented a Petition to the Sheriff of the Lothians and Peebles, at Edinburgh, under the Registration of Births, Deaths, and Marriages (Scotland) Acts, 1854 to 1860, craving the Sheriff to annex to the Morningside Registration District of the City of Edinburgh, for the purposes of said Acts, the Buildings and Grounds of the New Fever Hospital of the City, situated at Colinton Mains, in the Parish of Colinton, in which Petition the Sheriff has pronounced the following Interlocutor :—

“EDINBURGH, 14th March, 1904.

“The Sheriff having considered the foregoing Petition and relative productions, appoints intimation of the import of the Petition ; and of this Deliverance, to be made by Advertisement once in each of *The Scotsman*, *Edinburgh Evening News*, and *Edinburgh Evening Dispatch* Newspapers, certiorating all Parties that they may appear and be heard for their Interests at the Diet aftermentioned.

“Further, appoints service of the Petition and of this Deliverance to be made to the Registrar-General, and the Registrar of the Parish of Colinton, and fixes Wednesday, 30th March, 1904, at 11 o'clock A.M., within the Sheriff-Court House, George IV. Bridge, Edinburgh, as a Diet for hearing the Petition and any objections thereto.

“A copy of the Plans referred to in the Petition may be seen at the Sheriff-Clerk's Office, George IV. Bridge, Edinburgh.

(Signed) “C. C. MACONCHIE.”

Notice of which is Hereby Given Accordingly.

WM. SAUNDERS, S.S.C.,
Agent for the Petitioners.

EDINBURGH, 15th March, 1904.

After hearing the arguments on both sides, the Sheriff issued an Interlocutor, granting the prayer of the Petition, the Annexation to take effect on and after 1st June, 1904. (Of course this does not affect the general rule that any very considerable alteration on a Registration District should date from 1st January.)

In a *Note*, the Sheriff said he had no doubt that the application was competent, and his opinion was strengthened by the fact that Sheriff Rutherford had granted the prayer of a Petition on precisely similar lines. In his opinion, it was expedient that the claim of the Petitioners, as represented

to him on Wednesday, should be granted. He held that opinion on two grounds.

The first was the ground of convenience.

If Deaths in the Hospital were registered in Morningside district, the friends of the deceased would, in almost all cases, in going to the Hospital (where, as a rule, they had to go for the details to be furnished to the Registrar), have to pass the Morningside Registry Office, and to pass it again on their way home. They could make the journey in the cheapest and most expeditious way—namely, by tramway car, from all parts of the city. As matters stood, they had (if they did not walk the whole way) to go to Slateford by train, to walk about a mile to the Hospital, thence to the Colinton Registry—another mile—and finally to take the train from Colinton Station back to Edinburgh. That was obviously a more expensive route both in time and money, no small consideration when it was remembered that the great majority of patients in the Hospital were drawn from the labouring classes.

It further appeared to the Sheriff that it was expedient to make the change on the ground that the Mortality Statistics of Colinton, as well as of Edinburgh, would thereby be more accurately ascertained, Colinton at present being debited with a large number of deaths for which it was not really answerable, while the Edinburgh Statistics appeared more favourably in the Returns than they ought to do.

(The Hospital is used exclusively by Citizens of Edinburgh.)

ANOTHER FORM FOR ANNEXATION.

An Epidemic or Isolation Hospital was erected upon the boundaries of the Registration Districts of Arbroath and St. Vigean. The boundary line runs obliquely through the building at an angle not quite free from uncertainty. When deaths occurred in the building there was, consequently,

sometimes dubiety regarding the district in which the death took place. To avoid the possibility of any error in this respect, the piece of ground situated in St. Vigeans was annexed to the Registration District of Arbroath.

The following are the Petition and Sheriff's Warrant in the case, the forms being of a character likely to be generally useful :—

PETITION FOR ANNEXATION OF AREA.

In the Sheriff Court of Forfarshire at Arbroath.

The Provost, Magistrates, and Councillors of the Royal
Burgh of Arbroath,—*Petitioners.*

The Petitioners submit to the Sheriff the Condescendence and Note of Pleas in Law hereto annexed, and prays the Sheriff—

To annex to the Registration District of Arbroath, under the Acts relating to the Registration of Births, Deaths, and Marriages in Scotland, that small area or piece of ground enclosed by stone walls, presently part of the Registration District of St. Vigeans, and forming part of the site of the Epidemic or Isolation Hospital for the treatment of Infectious Diseases, recently erected by the Petitioners, as the Local Authority for said Burgh, under the Public Health (Scotland) Act, 1897, conjointly with the Arbroath District Committee of the County Council of Forfarshire, as the Local Authority for said District, under the said Act, for the joint use of said Burgh and District, and lying on the North side of the Road or Highway leading from Arbroath to Forfar, and on the East side of Herculesden, within, formerly, the Parish of St. Vigeans, now the United Parish of Arbroath and St. Vigeans and Arbroath District of said County,

as the said site is enclosed by stone walls, and as the same and the said area or piece of ground are shown on the Plan herewith produced, and that for the purposes of the said Registration Acts.

Condescendence.

1. The Petitioners, as the Local Authority for the Burgh of Arbroath, acting under the Public Health (Scotland) Act, 1897, conjointly with the Arbroath District Committee of the County Council of Forfarshire, recently erected an Epidemic or Isolation Hospital for the treatment of Infectious Diseases under said Act, to serve for the Burgh of Arbroath and the Arbroath District of the County of Forfar.

2. The said Hospital is erected on a site which lies on the North side of the Road or Highway which leads from Arbroath to Forfar, and on the East side of Herculesden, Said site is shown on a Plan herewith produced.

3. The said site is situated partly in the Burgh of Arbroath and Registration District of Arbroath, under the Acts relating to the Registration of Births, Deaths, and Marriages in Scotland, and partly in the United Parish of Arbroath and St. Vigean, Arbroath District of said County, and Registration District of St. Vigean.

4. As the Arbroath Burgh Boundary passes through the site of the Hospital, it is desirable that that part of the site lying in the County District should be added to the Registration District of Arbroath. This would be more convenient for the purposes of Registration, and particularly for the purpose of registering deaths, and would avoid any question as to whether the deaths took place in one Registration District or the other. The present application is accordingly made to the Sheriff under the 10th and 11th Sections of the Registration Act, 17 & 18 Vict. cap. 80, which are here held as repeated *brevitatis causa*.

Note of Plea in Law.

It being expedient and desirable in the circumstances that said area or piece of ground should be added to the Registration District of Arbroath, the prayer of the Petition ought to be granted.

In respect whereof,

(Signed) WM. ROBERTSON,
Solicitor, Arbroath,
Agent for Petitioners.

ARBROATH, 17th May, 1905.

The Sheriff-Substitute having considered the foregoing, Petition and productions, appoints the Petitioners to intimate the same to the Parish Council of Arbroath and St. Vigeans, the Registrar-General of Births, Deaths, and Marriages, and to publish the same on the Walls of the Sheriff Court, and by advertisement once in each of the *Arbroath Guide* and *Arbroath Herald* newspapers; and ordains all parties having objections to lodge the same with the Clerk of Court at Arbroath on or before Wednesday, the 21st day of June next, with certification.

(Signed) BREMNER P. LEE.

I, William Robertson, Solicitor in Arbroath, Enrolled Law Agent, Do hereby Certify that the foregoing Petition and Deliverance was on 29th May, 1905, intimated to the Parish Council of Arbroath and St. Vigeans, and the Registrar-General, by sending to each of them a full copy thereof in a Registered Letter posted at the General Post Office Arbroath, on said date, the Post Office Receipts for which are herewith produced, and that same was also published on the Walls of the Sheriff Court-House, Arbroath, and that

advertisements containing notice of the presentation of the Petition, &c., appeared in the *Arbroath Herald* newspaper of 18th May, and the *Arbroath Guide* newspaper of 20th May, 1905, copies of which containing said advertisement are herewith produced.

(Signed) WM. ROBERTSON,
*Solicitor, Arbroath, Enrolled Law Agent,
Agent for Petitioners.*

ARBROATH, 22nd June, 1905.

That no objections have been lodged is certified by

(Signed) JAMES DUNCAN,
Dep. Sh. Clk.

ARBROATH, 27th June, 1905.

The Sheriff having considered the foregoing Petition, and no objections having been lodged, grants the prayer of the Petition, for the purposes of the Registration of Births, Marriages, and Deaths Acts disjoins that small area or piece of ground enclosed by stone walls, except in so far as bounded by the present boundary of the Burgh of Arbroath, and delineated on the Plan No. 3 of process, presently part of the Registration District of St. Vigeans, and forming part of the site of the Epidemic or Isolation Hospital for the treatment of Infectious Diseases, recently erected by the Petitioners conjointly with the Arbroath District Committee of the County Council of Forfarshire, and lying on the north side of the Road or Highway leading from Arbroath to Forfar, and on the east side of Herculesden, within formerly the Parish of St. Vigeans, now the United Parish of Arbroath and St. Vigeans, and Arbroath District of said County, from the Registration District of St. Vigeans, and annexes the same—as the said site is enclosed by stone walls, and as the same and the said area or piece of ground are shown on the said Plan

—to the Registration District of Arbroath, in terms of the said Acts: Further appoints the Petitioners to give public intimation of this Interlocutor by advertisement in two newspapers circulating in the district where said area is situated.

(Signed) JA. FERGUSON.

ARBROATH, 29th June, 1905.—Reported.

JAMES DUNCAN, S.C.D.

REMARKS ON PROCEDURE.

There are differences in detail in connection with the procedure in Registration cases in the various Sheriffdoms.

The Irregular Marriage Form, for instance, used generally, is somewhat different in Glasgow, Edinburgh, and Dundee: the Petition part of the Lanarkshire form has an advantage in giving particulars helpful towards the making of an Entry in the Marriage Register; while the Edinburgh form of Declaration is more legal-looking in character; and the Dundee form goes so far as to add to the Warrant an authorisation to the Sheriff-Clerk to hand it to the Registrar of the District in which the Marriage was contracted.

For the application to the Sheriff for a Warrant to record Legitimation, no statutory form is prescribed. The parents of the child sign the Petition generally; but a special case has occurred where (the parents having gone abroad) the Sheriff accepted an application made under authority conveyed to an agent by a letter from the parents.

There are about 2300 Registration cases brought before Sheriffs in the course of a year.

The greater number of the Warrants which Sheriffs require to grant under the Registration Statutes proceed upon verbal applications, says Mr. Sellar in his book of Sheriffs' Forms

(1881), and without any record of the evidence being preserved. That is not the experience generally of Registrars in the East of Scotland. But Warrants for Corrections, &c., do appear to be still granted in the West upon mainly verbal application. That appears, however, to be partly because it is the practice for the Registrar himself to go before the Sheriff in Glasgow with the Informant.

The following Forms illustrate the foregoing observations, and are otherwise of use and interest.

From the selection of Forms given, a style of Petition should be easily prepared in almost every conceivable case.

For convenience, a List of Sheriff-Court Fees in Registration Proceedings is appended; also a revised List of Societies Registered under the Friendly Societies Act, 59 & 60 Vict. c. 25, and so entitled to Extracts from Registrars at the reduced fees.

WARRANT FOR CORRECTION OF ERROR.

Glasgow Form.

GLASGOW, 190 .

The Sheriff-Substitute of Lanarkshire, having examined upon Oath the informant for the Entry No. in the Register of for the Registration District of , in the Burgh of , for the year 190 , as also Registrar of said District, who made said Entry, and having seen an Extract of said Entry, finds that error been made in said Entry, and for the correction thereof, grants warrant to the Registrar of said District to make in the prescribed form an Entry in the Register of Corrected Entries, relative to said Entry, No. , to the following effect, viz. :—

Name and Surname.	When and Where Born.	Sex.	Name, Surname, and Rank or Profession of Father. Name, and Maiden Surname of Mother. Date and Place of Marriage.
	19		

At Glasgow, the day of Nineteen hundred and :
In presence of , Esquire, Sheriff-Substitute of Lanarkshire :
Compeared above designed, who, being interrogated, Declares that
and that, to the best of knowledge and belief, the particulars above stated, touching the
birth of the said child, are true and correct. And this declares to be truth.

(Signature.)

GLASGOW, 19 .

The Sheriff-Substitute, having considered the above declaration, grants warrant to Register
the Birth of the above-mentioned child in terms of Law.

BIRTH BEYOND THREE MONTHS.

Edinburgh Warrant.

At Edinburgh, the day of Nine-
teen Hundred and :

In presence of , Esquire, Sheriff-Substitute of
the Lothians and Peebles :

Appeared
who being interrogated, declares: On at
o'clock at ,
gave birth to a child, the birth of which has not
been registered.

All which I declare to be truth.

(Signature.)

EDINBURGH, .—The Sheriff-Substitute,
having considered the foregoing Declaration, grants warrant
to the Registrar of the , in which said birth took
place, to register the birth of the child in question.

(Signature of Sheriff.)

GLASGOW MARRIAGE FORM.

STREET,
GLASGOW, 190 .

We, , residing at , and
residing at , do hereby accept and
acknowledge each other as husband and wife.

(Signatures of Parties.)

Witness.

Witness.

Unto the Honourable the Sheriff of Lanarkshire.

The Petition of _____ residing at _____ and
 _____ now or lately residing at _____

HUMBLY SHEWETH,—

That upon the day of 190 , at No. Street, Glasgow, within the Registration District of , in the Burgh of Glasgow, the Petitioners contracted an irregular Marriage in the presence of , residing at , and residing at .

That the Male Petitioner is the son of _____ and
the Female Petitioner is the daughter of _____

That the Petitioner lived in Scotland for the
twenty-one days next preceding such Marriage.

May it therefore please your Lordship, on considering this Petition and the proof to be adduced in support thereof, to certify, in terms of the Second Section of the Act 19 and 20 Vic., cap. 96, that the Petitioners have been married to one another, and that the Petitioner lived in Scotland for twenty-one days next preceding such Marriage, and also to grant Warrant to the Registrar of the District aforesaid to enter such Marriage in the Register of Marriages kept by him under the Act 17 and 18 Vic., cap. 80.

In respect whereof, &c.,

At Glasgow, the day of Nineteen
hundred and :

In presence of _____, Esquire, Sheriff-Substitute
of Lanarkshire :

Compeared and , the Petitioners.

As also compeared residing at

who, being solemnly sworn and examined, depones : I know both of the Petitioners.

I was present on the day of , Nineteen hundred and , at No. Street, Glasgow, when the Petitioners, , whom I now see in attendance, contracted the Irregular Marriage referred to in the Petition, by accepting and acknowledging each other as husband and wife, and by subscribing the Declaration prefixed to the Petition, freely and voluntarily, and while in their sound and sober senses, in my presence and that of

I am aware that the Petitioner lived in Scotland for twenty-one days immediately preceding the date of such Marriage. All which is truth, as I shall answer to God.

Compeared residing at who, being solemnly sworn and examined, depones : I know both of the Petitioners.

I was present on the day of , Nineteen hundred and , at Street, Glasgow, when the Petitioners, , whom I now see in attendance, contracted the Irregular Marriage referred to in the Petition, by accepting and acknowledging each other as husband and wife, and by subscribing the Declaration prefixed to the Petition, freely and voluntarily, and while in their sound and sober senses, in my presence and that of

I am aware that the Petitioner lived in Scotland for twenty-one days immediately preceding the date of such Marriage. All which is truth, as I shall answer to God.

GLASGOW, 190 .—The Sheriff-Substitute having considered the foregoing Petition, with the acknowledgment

prefixed and proof adduced, and having heard the Petitioners, who acknowledge the truth of the statements contained in the Petition, finds it proved to his satisfaction, and hereby certifies that the Petitioners, _____, have, on the _____ day of _____, Nineteen hundred and _____, within _____ Street, Glasgow, been married to one another, and that the _____ Petitioner lived in Scotland for the twenty-one days next preceding such Marriage, therefore, grants warrant, in terms of the Act 19 and 20 Vic., cap. 96, to the Registrar of the _____ Registration District, in the Burgh of Glasgow (within whose District the said Marriage was contracted), forthwith to enter the said Marriage in the Register of Marriages kept by him, under the Act 17 and 18 Vic., cap. 80.

MARRIAGE BY CONVICTION.*

Form of Complaint in cases of Irregular Marriages.—Acts 1661, c. 34 and 1695, c. 12: also 1698, c. 6, and the Marriage (Scotland) Act, 1834 (4 & 5 Will. IV. c. 28).

* NOTE.—The Act 17 & 18 Vict. c. 80 uses in Section 48 the words “Justice of the Peace or Magistrate,” and some dubiety arose as to whether these words included Sheriff.

There can, however, be not the slightest doubt that the Sheriff has jurisdiction in such cases. The Act of 1661 ordains the Lord Advocate (who in County Courts is represented by the Procurator-Fiscals) and the Procurator for the Kirk to pursue Contraveners; while the Act of 1695, c. 12, says, Execution may proceed at the instance of the parties concerned, or of the Procurator-Fiscals of the jurisdiction. In the Acts of 1661, 1695, and 1834, no mention is made of Justices of the Peace. But they are mentioned, along with “any ordinary Magistrate,” in the Act of 1698, c. 6, as having power to seize and imprison parties who having entered into such marriages refuse to give information as to the names of the Celebrators and Witnesses, also provide for such Celebrators and Witnesses having penalties imposed on them. It however does not apply to the Act of Marriage itself.

COMPLAINT PRAYING FOR CONVICTION IN TERMS OF ACT,
AND FOR IMPRISONMENT OR FORFEITURE.

*Under the Summary Jurisdiction (Scotland) Acts, 1864
and 1881 ; and the Criminal Procedure (Scotland)
Act, 1887.*

DUNDEE,

190 .

Unto the Honourable the Sheriff of the County of Forfar.

The Complaint of Alexander Agnew, Procurator-Fiscal
of Court.

HUMBLY SHEWETH,—

That A. B. (*designation and address*), and C. D. (*designation and address*) on (*date*) at (*place*) did marry each other, or procure themselves to be married to each other, in a clandestine and in orderly way, by declaring themselves to be married persons in presence of E. F. (*designation and address*) and G. H. (*designation and address*); contrary to the Acts 1661, c. 34, and 1695, c. 12.

That the said C. D. had lived in Scotland for twenty-one days next preceding said Marriage.

May it therefore please your Lordship to Grant Warrant to cite the said A. B. and C. D. to appear before you, to answer to this Complaint ; and thereafter to Convict them of the aforesaid Contravention, and to Adjudge them to suffer the penalties provided by the said Acts.

According to Justice.

Procurator-Fiscal of Court.

DUNDEE,

190 .

The Grants Warrant to Officers of Court to serve a copy of the foregoing Complaint, and of this Deliverance, upon A. B. and C. D., Respondents, and to cite them to appear personally to answer thereto, at the Sheriff Court-House, Dundee, on the day of 190 , at o'clock noon, with certification, and also to cite Witnesses or Havers for both parties for all Diets in the Cause.

AT DUNDEE, the day of Nineteen Hundred and years, in presence of Esquire, Sheriff-Substitute of the County of Forfar, appeared

complained against, and the Complaint being read over to answer that

AT DUNDEE, the day of Nineteen Hundred and years, in presence of Esquire, Sheriff-Substitute of Forfarshire, appeared complained against

The following Witnesses were examined in support of the Complaint :—

AT DUNDEE, the day of Nineteen Hundred and years.—The Sheriff-Substitute, in respect of the

Convicts the said A. B. of the Contravention charged, and there Adjudges him to forfeit and pay the sum of of penalty

and, in default of immediate payment thereof, Adjudges him to be imprisoned in the Prison of Dundee for the period of hours (or days) from the date of imprisonment, unless the said sum shall be sooner paid ; and Grants Warrant to Officers of Court to apprehend and convey him to the said Prison, and to the Keeper thereof to receive and detain him accordingly :

Ordained and hereby ordains the said A. B. and C. D. to register their marriage in St. Mary's Registration District in the Parish of Dundee.

INTERLOCUTOR IN PETITION FOR WARRANT TO CORRECT
ENTRY IN REGISTER: FOLLOWING ON CONVICTION FOR
FALSE REGISTRATION.

KIRKCALDY, 30th August, 1905.

The Sheriff-Substitute, having considered the foregoing Petition, production, and relative depositions, grants authority to the Registrar of the Parish of Auchterderran to make the following insertion (dated and authenticated by his signature) in his Register of Corrected Entries :—

In column one of Entry No. 177 in the Register of Births for the year 1905, add *Snape* and (*illegitimate*), making the child's name to read Gerald Barratt Bentley *Snape* (*illegitimate*). Delete the contents of column four, and in lieu thereof insert *Charlotte Snape, Actress*. In column five delete "Bentley" and substitute *Snape* therefor.

The above correction is made under the direction and by the written authority of the Sheriff in consequence of the depositions taken on 30th August, 1905, of the following witnesses :—John Barratt Bentley, Actor, sometime residing in Bowhill foresaid ; Charlotte Snape, Actress, 4 Second Street, Bowhill, informant of the Birth in question ; William Wilson, Assistant Registrar of Births for the Parish of

Auchterderran ; and Arthur Webster, Inspector of Fifeshire County Police, Dunfermline :

Further authorises the Registrar to make the necessary reference to the correction in the margin of the erroneous entry.

(Signed) HAY SHENNAN.

INSERTION IN REG. COR. ENTS. FOR THE FOREGOING.

(Vol. II.)

Page 140.

REGISTER OF CORRECTED ENTRIES FOR THE PARISH OF
AUCHTERDERRAN IN THE COUNTY OF FIFE.

In column one of Entry No. 177 in the Register Book of Births for the year 1905, add *Snape* and (*illegitimate*), making the child's name to read *Gerald Barratt Bentley Snape (illegitimate)*. Delete the contents of column four and in lieu thereof insert *Charlotte Snape, Actress*. In column five, delete "Bentley" and substitute *Snape* therefor.

The above correction is made under the direction and by the written authority of the Sheriff, in consequence of the depositions taken on 30th August, 1905, of the following witnesses :—John Barratt Bentley, Actor, sometime residing in Bowhill foresaid ; Charlotte Snape, Actress, 4 Second Street, Bowhill, informant of the Birth in question ; William Wilson, Assistant Registrar of Births for the Parish of Auchterderran ; and Arthur Webster, Inspector of Fifeshire County Police, Dunfermline.

23rd September, 1905, at Lochgelly.

(Signed) WILLIAM WILSON, Assist. Registrar.

FORM OF INSERTION IN REG. COR. ENTS. IN CASE OF
DISCREPANCY IN REGISTERS.

In the second column of Entry No. 22 of the duplicate volume transmitted to the Registrar-General of the Register Book of Births for the year 1904, for

“ November twenty-fifth ”

substitute

November twenty-first

(as in the duplicate volume of said Register Book retained in the district).

The above correction is made under the direction and by the written authority of the Sheriff in consequence of the Deposition (dated 18th September, 1905) of George Robertson, Registrar.

2nd October, 1905, at Tyrie.

GEORGE ROBERTSON, *Registrar*.

TRIPLETS—PETITION FOR ROYAL BOUNTY.

To the King's Most Excellent Majesty !

The Humble Petition of A. B., Registrar for the district
of in the of , and
residing at there,

SHEWETH,—

That upon the day of 19 , the wife of C. D. (*General Labourer*), residing at , within your Petitioner's bounds, gave birth to three (daughters), as the enclosed Certificates from the Birth Register will show.

That mother and children are all doing well.

That the parents are in necessitous and deserving circum-

stances. Wherefore, your Petitioner humbly prays that Your Majesty will be graciously pleased to administer of thy Royal Bounty.

And your Petitioner as in duty bound will ever pray.

(Signed) , Registrar.

The foregoing is a form of Petition which has been useful in such cases where the Registrar has been kind enough to help deserving parents—whose Triplets are alive at the time of petitioning—to obtain the bounty given where it is deserved and necessary: that is, where the circumstances of the parents render such bounty necessary, and the three children are alive—the death of any of them shutting off the right to petition, so that prompt application is advisable. The Petition should be addressed to—The Keeper of the Privy Purse, Buckingham Palace, London, S.W.

SHORT FORM OF APPOINTMENT OF *INTERIM* REGISTRAR.

SHERIFF COURT, ABERDEEN.

I, J. H. B., Esquire, Advocate, Sheriff-Substitute of Aberdeen, Kincardine, and Banff, having received information that C. S., Registrar of the district of Saint Nicholas, has died, do hereby, in terms of the Statute, 17 & 18 *Victoriæ*, cap. 80, section 12, Nominate and Appoint W. A. E., Assistant Registrar of said district, to be *Interim* Registrar of the said district of Saint Nicholas, Aberdeen, with all the usual powers.

Given at Aberdeen, the Second day of March, Nineteen hundred and seven years.

(Signed) J. H. B.

TABLE OF SHERIFF COURT FEES.

COURTS OF LAW FEES (SCOTLAND) ACT, 1895,
58 VICT. c. 14.

Act of Sederunt, Court of Session, Scotland,
Regulating the Fees payable in the Sheriff Courts.

EDINBURGH, 21st November, 1895.

The Sheriff-Clerk is entitled to charge the following fees
for Proceedings under the Acts for Registration of
Births, Deaths, and Marriages:—

1. Warrant to make delayed entry in the
Register of Births £0 1 0

2. Warrant to correct an entry, or to enter
Name given in Baptism, or to enter
Legitimation *per subsequens matri-*
monium 0 3 0

3. Warrant for the Registration of an
Irregular Marriage 0 5 0

(To cover the whole procedure thereon) [except in some
Courts small fee of 1s. or so to Bar Officer.]

4. Warrant for authority to make an entry in
the Register of Neglected Entries 0 5 0

(To cover the whole procedure therein.)

5. Any other Warrant, Petition, or Applica-
tion under these Acts 0 5 0

NOTE.—Where parties are very poor, the Sheriff, by
a marking on the warrant, may dispense with the fee.

LIST OF SOCIETIES REGISTERED UNDER THE
FRIENDLY SOCIETIES ACT, ARRANGED
ACCORDING TO COUNTY.

ABERDEENSHIRE.

Braemar Royal Highland Society.
Union Lodge of Oddfellows,
Strichen.

Lonach Highland and Friendly
Society.

Aberdeen and Northern Friendly
Society.

Loyal Aberdeen Star Lodge,
No. 149, N.I.O.O.F., Friendly
Society, Aberdeen District No.
1.

Society in Aberdeen for the
Benefit of the Children of
Deceased Ministers of the
Church of Scotland and of
Professors of the Universities
of Scotland.

St. Andrew's Society of Aberdeen.

Aberdeen Juvenile Court of
Foresters' Friendly Society.

Caledonian Order of United
Oddfellows' Friendly Society.

Peterhead Fishermen's Benevo-
lent Society.

Aberdeen Mutual Assurance and
Friendly Society.

Peterhead Oddfellows' Friendly
Society.

Caledonian Friendly and Deposit
Society, Aberdeen.

St. Paul's Friendly and Deposit
Society.

ARGYLLSHIRE.

Easdale Funeral and Friendly
Society.

Easdale Young Men's Friendly
Society.

Argyll Juvenile Foresters'
Friendly Society.

Independent Scottish Shepherds'
Friendly Society.

AYRSHIRE.

Saltcoats Solomon Lodge of Free
Gardeners' Friendly Society.

Kilmarnock Philadelphian
Society.

Thistle Lodge of Free Gardeners
of Kilbirnie Friendly Society.

Ayr Self-Supporting Society.

Ayrshire Friendly Society.

Fergushill Colliery Funeral
Society.

Stewarton Safeguard Friendly
Society.

Irvine Free Masons' Friendly
Society.

Joppa Thistle Lodge of Free
Gardeners' Society.

Robert Burns Lodge of Free
Gardeners' Economic Friendly
Society.

Glasgow and South Western
Railway Friendly Society.

Ayrshire Order of Foresters'
Friendly Society.

Kilmarnock Juvenile Oddfellows'
Friendly Society.

Spring Hill Lodge Free
Gardeners' Economic Friendly
Society.

Dalmellington Free Gardeners' Friendly Society.
 Sunflower Free Gardeners' Friendly Society.
 Stewarton Mutual Aid Friendly Society.

CAITHNESS-SHIRE.

Thurso Working Men's Sick and Provident Society.

CLACKMANNANSHIRE.

Westfield Brotherly Death Society.
 Tillicoultry Parish Friendly Society for Funerals.
 Newtonshaw New Friendly Society for Funerals.
 Devon Colliery Friendly Society.
 Newtonshaw Friendly Society for Funerals.
 Newtonshaw and Devon Brotherly Death Society.
 Lady Norton Ancient Order of Foresters' Juvenile Sick and Funeral Society.

DUMBARTONSHIRE.

Condorrat Funeral Society.
 Old Kilpatrick Friendly Society.

DUMFRIESSHIRE.

Masonic Brotherly Society of St. John's, Thornhill.
 Sir Walter Scott Mechanics Friendly Society.

EDINBURGHSHIRE.

Benevolent Friendly Society of Colliers and Others in Craig-hall, Inveresk.

Dalkeith Youths' Friendly Society.
 Edinburgh School of Arts Friendly Society.
 Edinburgh Compositors' Society.
 Edinburgh St. Cuthbert's Lodge of Free Gardeners.
 Heriots Benefit Society.
 Musselburgh Youths' Friendly Society.
 Thistle Lodge Friendly Society of West Calder.
 Corstorphine Friendly Society.
 Musselburgh Caledonian Youths' Friendly Society.
 Friendly Society of Fishermen of Fisherrow.
 Incorporation of Porters of Leith, "The Forty-eight."
 United Presbyterian Ministers' Friendly Society.
 Society of Free Fishermen of Newhaven.
 Edinburgh Trades Benefit Society.
 Servants' Institution, Edinburgh.
 Incorporation of Carters in Leith.
 Barony of Broughton Lodge of Free Gardeners' Friendly Society.
 St. Andrew's Lodge of Free Gardeners' Friendly Society.
 Leith Lodge of Free Gardeners' Friendly Society.
 St. George's Lodge of Free Gardeners' Friendly Society.
 Rosewell Whitehill Colliery Funeral Society.
 United Friendly Society of House and Ship Painters of Edinburgh, Leith, and Vicinity.
 Coachmen and Grooms' Benevolent and Friendly Society.

Thistle Lodge of Free Gardeners' Friendly Society.

Rosewell Friendly Benefit Standing Society.

Edinburgh Carters' and Porters' Friendly Society.

Edinburgh, Leith, and District Millers' Friendly Society.

Mid Calder Olive Lodge of Free Gardeners' Friendly Society.

St. Paul's Lodge of Free Gardeners' Permanent Friendly Society.

Archibald Stewart Lodge of Free Gardeners' Friendly Society.

Edinburgh and Leith Commercial Travellers' Benevolent Association.

St. Anthony Lodge of Free Gardeners' Friendly Society.

Scottish Order of Oddfellows' Friendly Society.

Musselburgh and Fisherrow United Friendly Society.

Independent United Order of Scottish Mechanics' Friendly Society.

Edinburgh Juvenile Foresters' Sick and Funeral Friendly Society.

St. Andrews Catholic Total Abstinence and Benefit Society.

Juvenile Order of Scottish Mechanics' Friendly Society.

Edinburgh Jewish Independent Burial Friendly Society.

FIFESHIRE.

Ancient Society of Gardeners, Dunfermline.

Dunfermline Woodhead Street Benevolent Funeral Society.

Halbeath Friendly Burying Society.

Society of Workmen in and about Baldrige and Berrylaw.

Burgesses and Trades Poor Box of Anstruther Easter.

Townhill Friendly Burying Society.

Forth Iron Works Friendly Funeral Society, No. 1.

Kirkcaldy and Abbotshall Equitable Funeral Society.

Poor Sea Box Society of St. Andrews.

Coaltown of Wemyss Funeral Society.

Burntisland Funeral Insurance Society.

Lochgelly Olive Lodge of Free Gardeners' Friendly Society.

Pride of Fife Lodge of Free Gardeners' Friendly Society.

Abbey Lodge of Free Gardeners Friendly Society.

St. Clair Lodge of Free Gardeners' Society.

Buckhaven Bee Hive Lodge of Free Gardeners' Friendly Society.

Dunfermline Annuity Association.

Blairadam Vine Lodge of Free Gardeners' Friendly Society.

Cedar of Lebanon Lodge of Free Gardeners' Friendly Society.

St. Brycedale Juvenile Foresters Friendly Society.

Ramornie Vine Lodge of Ancient Free Gardeners' Friendly Society.

Kirkcaldy and Fifeshire Juvenile Foresters' Friendly Society.

St. Mark Lodge Royal Order of Knights, A.F.G., Friendly Society.

Lily of the Vale Free Gardeners' Friendly Society.

Palm Lodge of Ancient Free Gardeners' Friendly Society.

St. John Lodge of the Royal Order of Knights Ancient Free Gardeners' Friendly Society.

FORFARSHIRE.

Dundee Harbour Porters' or Philanthropic Benefit Society.

Lochee Union Weavers' Lodge Friendly Society.

Dundee Burial Society.

Montrose Mutual Life Assurance Society.

Aberbrothock Juvenile Foresters' Society.

International Ploughmen's Society of Scotland.

HADDINGTONSHIRE.

Prestonpans Caledonian Lodge of Free Gardeners' Friendly Society.

Prestonpans United Society of Carters.

Black Agnes Lodge of Free Gardeners' Benefit Society.

INVERNESS-SHIRE.

St. John's Kilwinning Lodge of Free Masons, No. 6, of Scotland Friendly Society.

KIRKCUDBRIGHTSHIRE.

Carsphairn Medical Aid Providing Society.

Dalbeattie Juvenile Lodge, I.O.O.F., Friendly Society.

LANARKSHIRE.

Airdrie Funeral Society.

Airdrie Olive Lodge of Free Gardeners' Society.

Airdrie Weavers' Friendly Society.

Glasgow Journeymen Goldsmiths' Friendly Society.

Chapelton Friendly Society.

Airdrie Greenhouse Lodge of Free Gardeners' Friendly Society.

Journeymen Bakers' Friendly Society of Glasgow.

Clydesdale Upper Ward Society. Master Bakers' Friendly Society of Glasgow.

Strathaven Weavers' Friendly Society.

Glasgow North Britons Friendly Society.

Glasgow Galloway Brotherly Society.

Dalziell Funeral Society.

Western Friendly Society of Glasgow.

Glasgow Police Friendly Society. Gartsherrie Coal Hewers' Friendly and Funeral Society.

Camlachie Old Friendly Society.

Wishawtown Funeral Society.

Parkhead Friendly Society.

Lesmahagow Masonic Friendly Society.

Lesmahagow Funeral Society.

Commercial Travellers' Society of Scotland.

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| <p>Old and New Lanark Funeral Society.</p> <p>Glasgow Hibernian Funeral Society.</p> <p>Glasgow North Quarter Funeral Society.</p> <p>Blackquarry Funeral and Mortcloth Friendly Society.</p> <p>Coatbridge Funeral Society.</p> <p>Westmuir and Parkhead Friendly Society.</p> <p>Glasgow Water of Endrick Friendly Society.</p> <p>Larkhall and Millheugh Friendly Society.</p> <p>Town of Lanark and Neighbourhood Funeral Friendly Society.</p> <p>Friendly Society of Sons of Bakers in Glasgow.</p> <p>Burgh of Lanark Funeral Society.</p> <p>Hamilton Young Soldiers' Friendly Society.</p> <p>Airdrie Working Men's Friendly Society for Funerals.</p> <p>Scottish Legal Life Assurance Society.</p> <p>Caledonian Railway Servants' Friendly Society.</p> <p>Coatbridge Greenhouse Lodge of Free Gardeners' Friendly Society.</p> <p>Glasgow Ironmongers' and Iron-merchants' Friendly Society.</p> <p>Stonehouse Funeral Society.</p> <p>Glasgow Journeymen Coopers' Society.</p> <p>City of Glasgow Friendly Society.</p> <p>Lanark Mechanics' Funeral Society.</p> <p>Glasgow Letterpress Printers' Permanent Yearly Friendly Society.</p> | <p>Glasgow and South Western Railway Locomotive Friendly Society.</p> <p>Maryhill Friendly Society.</p> <p>Caledonian Railway Engine Drivers' and Firemen's Life Assurance Friendly Society.</p> <p>Larkhall Alexander Lodge No. 10 of Free Miners' Friendly Society.</p> <p>Kirkfield Bank Funeral Society.</p> <p>Rutherglen Farm Funeral Society.</p> <p>Wishaw Coltness Lodge of Free Gardeners' Friendly Society.</p> <p>New Lanark Junior Funeral Society.</p> <p>Scottish United Reform Friendly Society.</p> <p>Larkhall Funeral Society.</p> <p>Leadhills Friendly Society.</p> <p>North British Iron Works Yearly Friendly Society.</p> <p>Ark Sick and Funeral Permanent Yearly Society.</p> <p>Monkland Thistle Lodge of Free Gardeners' Friendly Society.</p> <p>Motherwell Thistle Lodge of Free Gardeners' Society.</p> <p>Carlisle Thistle Lodge of Free Gardeners' Friendly Society.</p> <p>Glasgow Juvenile Foresters' Sick and Funeral Society.</p> <p>Douglasdale Lodge of Free Gardeners' Society.</p> <p>St. Andrew Order of Ancient Free Gardeners' Friendly Society.</p> <p>Parkhead Thistle Lodge of Free Gardeners' Friendly Society.</p> <p>Airdrie First of August Friendly Society.</p> |
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Glasgow and West of Scotland
Commercial Friendly Society.
Blantyre Funeral Society.
Glasgow and Paisley, and Glasgow
and Kilmarnock Joint Lines
Servants' Friendly Society.
Glasgow and West of Scotland
Horse Shoers' Friendly Society.
Scottish Clerks' Association.
Italian Operatives' Mutual Help
Society.
Court Neilson, No. 6329, Juvenile
Foresters' Sick and Funeral
Society.
Well Road Spindle Works'
Friendly Society.
Rutherglen Funeral Society.
Larkhall Thistle Lodge of Free
Gardeners' Friendly Society.
Ancient Order of Hibernians
Benefit Society.
Union and Crown Lodge Inde-
pendent Gardeners' Society.
Scottish Engine Drivers' and
Firemen's Friendly Society.
Sons of Rechab Glasgow Unity
Temperance Friendly Society.
Loyal Orange Institution of
Scotland Friendly Society.
West of Scotland Coachmen's
and Grooms' Friendly Society.
Vale of Carstairs Lodge of Free
Gardeners' Society.
Bardic Circle of Druids' Sick
Benefit Society.
Scottish General Collecting
Society.
Glasgow Licensed Trade
Employees' Friendly Society.
Patriotic Collecting Society.
British Order of Ancient Free
Gardeners' Friendly Society.

Govan Foresters' Juvenile
Friendly Society.

LINLITHGOWSHIRE.

Fraternity of Dyers, Linlithgow.
Beneficent Society in Borrow-
stounness.
United General Sea Box of
Borrowstounness Friendly
Society.
Bathgate Olive Lodge of Free
Gardeners' Friendly Society.
Rose of Grange Lodge of Free
Gardeners' Friendly Society.
Broxburn Shale, Oil, and Coal
Works' Friendly Society.
Broxburn Albion Lodge of Free
Gardeners' Friendly Society.
Bo'ness Co-operators' Friendly
Society.
Rose Bud Lodge of Free
Gardeners' Friendly Society.
St. John Lodge Friendly Society.

PERTHSHIRE.

Scottish Railway Servants'
Friendly Society.
Scottish Prison Officers' Friendly
Society.

RENFREWSHIRE.

Scottish Life and Health Friendly
Society.
Pollokshaws Friendly Funeral
Society.
Paisley Friendly Equitable
Funeral Society.
Paisley Funeral Society.

Society of Weavers in Pollok-shaws.

Busby Funeral Society.

Paisley Working Men's Independent Funeral Society.

Grahamston and Barrhead Funeral Society.

Greenock Friendly Funeral Society.

Busby Friendly Society.

A.O.F. Juvenile Sick and Funeral Society.

Innerkip Society.

Paisley Juvenile Oddfellows' Friendly Society.

Johnstone Juvenile Foresters' Society.

ROXBURGHSHIRE.

Border Union Friendly Society.

Border Oddfellows' Female Friendly Society.

Teviotdale Order of Mechanics' Friendly Society.

SELKIRKSHIRE.

Galashiels Juvenile Foresters Friendly Society.

STIRLINGSHIRE.

Banton Friendly Society.

Carron Friendly Society.

Kilsyth Benefit Union Friendly Society.

Fintry Friendly Society.

Kilsyth Thistle Lodge of Free Gardeners' Friendly Society.

Denny and Dunipace Thistle Lodge of Free Gardeners' Friendly Society.

Falkirk Royal St. Crispin Lodge, No. 8, Friendly Society.

Stirlingshire Friendly Assurance Society.

Denny and Dunipace Funeral Friendly Society.

Alva Funeral Society.

Camelon Death Fund Society.

Milton of Campsie Funeral Society.

Slamannan Thistle Lodge of Free Gardeners' Society.

Golden Willow Lodge of Free Gardeners' Friendly Society.

Barrwood Permanent Benefit Society.

Blackbraes Sir William Wallace Lodge of Free Gardeners' Friendly Society.

Grand Lodge of Scotland Free Colliers' Society.

St. Ninians and District Juvenile Sick and Funeral Society.

Stirling and District Juvenile Foresters' Sick and Funeral Society.

REGISTERED FRIENDLY SOCIETIES.

Scottish Legal Friendly Society.

City of Glasgow Friendly Society.

Aberdeen Northern Friendly Society.

Victoria Legal Friendly Society.

Royal Liver Friendly Society.

Scottish United Reform Friendly Society.

Golden Eagle Friendly Society.
 Globe Friendly Society.
 Royal London Friendly Society.
 Stirlingshire Friendly Assurance
 Society.

All Branches of the following
 Orders, viz. :—Foresters, Shep-
 herds, Rechabites, Mechanics,
 Gardeners, Oddfellows, and
 the like.

Those in the foregoing list are entitled to Extracts at the
 Fee provided by the Friendly Societies Act.

INDUSTRIAL ASSURANCE COMPANIES.

Prudential Assurance Company.
 Pearl Assurance Company.
 Pioneer Assurance Company.
 Refuge Assurance Company.
 British Legal Assurance Company.
 London, Edinburgh, and Glasgow
 Assurance Company.

Salvation Army Assurance Com-
 pany.
 Scottish Imperial Assurance
 Company.
 Britannic and General Assurance
 Company.

Those, together with all Societies not in the first list, come
 under the provision referred to in the "N.B." at the foot
 of the Application Form for a Certificate of the Death of
 a person aged 10 years. An ordinary Extract Form is
 issued, and the usual Fee (2/1) charged.

New Friendly Societies and Industrial Assurance Companies arise
 from time to time; while others disappear, or alter their
 designation—the Britannic, for instance, was known formerly
 as the "British Workman."

REGISTRARS' ACCOUNTS, AND THEIR AUDIT.
ARDOCH CASE.

A SPECIAL CASE, of most interest to County Registrars, is—

KIPPEN (Official Auditor of Ardoch Parish Council)

v.

MONTETH (Registrar of Ardoch Parish).

Sheriff Court of Perthshire at Dunblane (Sheriff-Substitute
SYM), 5th December, 1906.

PARISH COUNCIL AUDIT—DUTY OF REGISTRAR TO ATTEND
AUDITOR WITH BOOKS.

Held that the Registrar of a Parish was bound to attend on the official Auditor of the Parish Council with his books when called upon to do so.

This was an action raised by the Auditor of the Parish Accounts against the Registrar of the Parish of Ardoch, for production of the books kept by him as Registrar for said Parish. The Defender refused to produce his books to the Auditor for audit, contending that he was entitled to the fees paid to him for extracts, &c.

The Interlocutor and Note of the Sheriff are in the following terms :—

DUNBLANE, 5th December, 1906.—The Sheriff-Substitute, before further answer, and under reservation as to the patrimonial right of the Defender in any particular fee or class of fees which may have been paid or may be payable to him as Registrar, ordains the Defender to attend the Auditor of Ardoch Parish Council, the Pursuer, at his Office, 38 Tay Street, Perth, on Saturday, 22nd December curt., at twelve noon, and to produce before him the books and documents kept by him, the Defender, as Registrar of the Parish of Ardoch, showing the fees received by him as Registrar during the year ended 15th May, 1906, and to sign a declaration

as to the accuracy thereof: Meantime, continues the cause, reserving the question of expenses on the motion of the Defender: Grants leave to appeal.

(Signed) JOHN DAVID SYM.

NOTE.—The Defender is Registrar of Births, Marriages, and Deaths for the Parish of Ardoch. It is in that capacity that he is called in this action. Ardoch is a landward parish. The Defender was appointed Registrar at Ardoch on 31st March, 1899. The Defender was to be paid by salary—the salary of £7, 10s.

When the Parish Council of a parish appoints a Registrar, the election is, by statute, to be intimated within ten days thereof to the Registrar-General. The Registrar, once appointed, is under the control and superintendence of the Sheriff. He has also a relation to the Registrar-General, and that official has under him Inspectors and Examiners who inspect the books of the Registrar.

The ordinary duty of a Registrar is to register in his books, without fee, Births, &c., occurring within his district, the parties having special cognizance of a Birth, &c., being on their part bound, under penalty, to supply the information necessary to be registered. But by the Registration Acts a Registrar is entitled to fees, authorised by that Act to be taken. Of these he is bound to keep a correct account. At a certain part of the year he is bound to deliver or transmit a copy of that account to the Sheriff, with whose Sheriff-Clerk the account is to lie. It is to be furnished to the Registrar-General for his purposes. It may be said that the fees contemplated are for late registration of a birth, insertion of a baptismal name after registration, insertion of name of an unbaptised person after registration.

Further, the Registrar is to have a fee if the parties require him to attend the solemnization of a marriage in his parish. (It may be noted that this does not countenance Registrars meddling in irregular marriages for fees.) Again, should a conviction be obtained before a Magistrate, of persons who have contracted an irregular marriage, or should the Court of Session or the House of Lords declare a marriage to have been constituted, the Registrar of the parish of the domicile of a party thereto was entitled to a fee for registering it.

Each Registrar has to make up an account for each year. The account was according to a scale given by the Act, with such further remuneration as the Parish Council might think fit. At this part of the statute, however, comes the proviso—"provided that it shall be lawful for the Parochial Board [now the Parish Council], with the approbation of the Registrar-General or of the Sheriff, to place the

Registrar and Assistant Registrar upon annual salaries," the amount of which shall be fixed by the Parochial Board with the like approbation, and such salaries shall be paid by the Parochial Board out of the assessment to be levied as herein-before directed; and the fees received "by the Registrar, which, in such case, shall be accounted for by him to the Parochial Board," now Parish Council.

At a later part of the statute there comes mention of other fees viz.:—for searches and examinations of the books, which are competent to the public at reasonable hours, and for extracts, which the Registrar is empowered and directed to make and give. The Registrar-General was given power to diminish the fees.

The Registration Act, 1855, does not appear to require to be referred to here. By a later Act, the Registrar-General may, on the representation of a Registrar that his remuneration is inadequate, require the Parish Council to increase it to an extent which he may think necessary, and should there be a difference between the Registrar-General and the Parish Council, the Sheriff is to determine the matter finally. Under the Registration Acts, "Sheriff" includes Sheriff-Substitute. Under the Vaccination Act, 1863, and under the Friendly Society Act, 1896, certain fees are payable to Registrars.

As the Defender is, under his appointment, a Registrar paid by salary, it is thought that the law applicable to him is that his salary is paid out of a sum formed from two sources, viz.—(a) an assessment upon the ratepayers in the parish levied along with, but separate from poor assessment (if an assessment be needed), and (b) the fees received by him, "which fees shall be accounted for" by him to the Parish Council.

The Defender's superiors in his office are, then, the Sheriff and the Registrar-General. The Defender's paymaster is the Parish Council. The fees will go into that part of the Parish Council receipts which is carried to the "general parish fund," because that part of the receipts takes the place of the funds of the old Parochial Board.

The accounts of a Parish Council are the subject of a statutory audit. An auditor is appointed by the Local Government Board. To him the Parish Council is, by its Clerk, annually between 15th May and 1st August to transmit its accounts.

The Pursuer of this action is the auditor appointed by the Local Government Board to audit (among those of other parishes) the accounts of the Parish of Ardoch. The accounts of a parish are to be made up and balanced as at 15th May in each year. The Clerk of the Parish Council (Mr. Jeffray, Solicitor, is Clerk of the Parish

Council of Ardoch), is to give fourteen days' notice of the time and place of audit. The Auditor may, by demand in writing, require production of all accounts and documents "which he may deem necessary," and may require any person holding the same to appear before him at any such audit under a penalty. He may, by *interim* report, disallow expenditure which is in his opinion contrary to law, and if any sum has not been brought into account which, in his opinion, ought to be brought into account, he may by *interim* report, report thereon to the Local Government Board, which Board, after due notice, may decide this question of audit; and the Auditor is thereafter to complete his report.

This action is brought by the Auditor (after much correspondence with the Defender), for decree ordaining the latter to produce books and documents relating to the fees received by him as Registrar of Ardoch for the year ending 15th May, 1906, for extracts from, and searches in, his books, and for decree ordaining the Defender to attend at the Pursuer's office with his books and documents, and to give such information and explanation thereanent as may be required, and to sign a declaration thereanent certifying their accuracy, all as set forth in the Parish Councils Act and the part of the Local Government Act (or County Councils Act) thereof made part. The defender objects to do so. The Sheriff-Substitute is desirous to assume in his favour that this is not from any contumacious desire to disobey the statutes (a thing which he disclaims in the correspondence), but because he holds that the true point at issue is his right to certain fees in addition to his £7, 10s. of salary. He considers that the question is one for the Sheriff, under the Registration Acts, and is a question to be decided under these Acts in a summary manner. He maintains that the statutory audit arrangements of section 70 of the Local Government Act do not apply to his case. Now, it appeared to the Sheriff-Substitute at the time of the debate doubtful whether the Auditor had a title to sue—whether, assuming everything else in favour of the action, the Local Government Board, which is behind the Auditor, ought not to be a party. For, *primâ facie*, an Auditor is not the person to come forward with an action for accounting. The accounts being brought before him at the instance of those having right are the result of the audit; he settles them, and reports (and Mr. Barty forcibly stated certain other grounds for doubting the title which may be said to make a case in which the title to sue depends upon the merits or want of merits in the action). The Sheriff-Substitute has come to think that the statutory rights and position of the Auditor of a Parish Council do confer upon him the right, if

obstructed in his duty, to approach the Sheriff for an order upon the Registrar to make forthcoming his accounts and papers. Nor does the Sheriff-Substitute think that he can, at all events in this question of a claim to refuse to submit to audit, affirm the proposition of the Defender that his appointment was not under section 51 of the Registration Act in respect of salary. *Primâ facie* it is such, and the Registrar-General at the time seems to have so considered it. Nor can he affirm the Defender's other proposition for the purposes of this case, that the true question being one of right to fees, the action cannot be maintained.

It is thought, on the other hand, that the Defender is bound to have his accounts audited by the Parish Council Auditor. On the audit, questions may arise as to whether the Auditor is entitled to bring this or that fee, say a particular search fee, into account. And a question may arise whether the Sheriff be, or the Local Government be, final judge. This process does not appear to the Sheriff-Substitute as suitable for the determination, directly or under cover of any order in it, of matters of right to fees.

He has, therefore, made an order expressly reserving what scarce needed a reservation, but at the same time directing the Registrar to take the steps which will enable the parish audit to be completed. *Primâ facie*, it cannot be completed without this, and questions can be settled on report. There appears to be no hardship to the Defender in directing him to come to Perth. In order to save his position, he refused to see the Auditor when the Auditor offered to come to Ardoch. In the ordinary case, a personal interview does not seem to be necessary. It may be so here. Just at the inception of the process, the Defender sent in the list No. — of process. But the Local Government Board and the Pursuer seem to be right in thinking that that is not the same as the submission of accounts to an audit.

(Initialed) J. D. S.

CHAPTER VII.

VITAL STATISTICS.

To effect an accurate and legal record of each Birth, Marriage, and Death is the primary object of the Registration Acts. Civil Registration has, however, been the means of promoting Public Health. Just as the Occupation Column of the Census Schedule is rich in useful information as to Employment, so the Cause of Death Column records the nation's general condition as to Health; and it will tend to give a better appreciation of the present system, to bear in mind the facts set down as to the older system in a *Sketch of the Rise of Registration in Scotland*, which will form the first portion of the present Chapter. The Sketch is historical, and is divided into two parts—

I. EARLY ATTEMPTS.

II. LATER DEVELOPMENTS.

Population, the basis of all Vital Statistics, is next considered historically, in connection with the doctrines of Malthus, under the sub-head of

III. POPULATION AND MALTHUSIANISM.

The first part of the Chapter thus gives a general idea of the utility of Vital Statistics.

From the plan and purpose of this Manual, necessarily somewhat brief treatment is accorded here to the other chief sub-heads, viz. :—

IV. NUPTIALITY, AND ILLEGITIMACY.

V. NATALITY AND INFANTILE DEATH-RATE.

VI. MORTALITY STATISTICS AND THEIR LESSONS.

An outline of the Scottish system of Vital Statistics is calculated to show the value of the Registers and of the Registrar-General's Statistical Reports. Such a sketch of the practical results of Vital Registration is of interest not only to Registrars and the general public, but also to Parish and Town Councils—the Members of which bodies sometimes show a lack of acquaintance with the work of Registration. Nor is knowledge of the value of Vital Statistics, as collected in the Registrar-General's Reports, so generally diffused as is desirable. On "Mortality Statistics," volumes might be written. Very brief, perforce, are the remarks here under that heading; but the object aimed at will have been achieved if enough is said to show how valuable are the *data* contained in carefully certificated Causes of Death, and other information, recorded in their Death Books by Registrars, and massed into figures and telling diagrams by the Registration Department.

The whole Chapter is an introduction to the more minute study of the essential facts of human life recorded in the Registers, and of the laws governing the physical condition and progress of mankind. Each Report of the Registrar-General is an epitome of the life around us.

The Weekly Reports of the Registrar-General are referred to so frequently and are so generally familiar that most people are aware of the fact that all the Registrar-General's Reports are a product of the national system of Registration explained in previous chapters.

For the purposes of Public Health, the Old Parochial Registers were of but small use: briefly, they are not a satisfactory basis for Vital Statistics.

A few notes upon the history of these old records may

help, however, to a clear understanding of the Evolution of Registration in Scotland.

I.—EARLY ATTEMPTS.

IN 1551, a provincial council of the Scottish Clergy was held in Edinburgh by James Hamilton, Archbishop of St. Andrews, which besides confirming some existing canons enacted several new ones; and to the fourteenth of these canons we are indebted for the establishment of Parochial Registers of Baptisms and of Proclamations of Marriages.

In addition to the names of the children and of their parents, the register of Baptisms was to contain the names of god-parents, and each entry of Baptism to bear the attestation of two witnesses. "The solicitude of the council for rendering such registers perfect is highly laudable," observes Lord Hailes in his "*Annals of Scotland*" (vol. iii. p. 263). But the Canon of 1551 contained no provision for the recording of Burials.

In 1565, at the convention of the General Assembly held in Edinburgh, the Commissaries of that city requested that every minister or reader besides keeping a register of the names and residences of persons deceased in their respective parishes, with dates of death, should deliver a copy thereof to the Procurator-Fiscal, "that pupils and creditors be not defrauded."

It was answered that such a charge could not be laid upon the clergy, as few of them were then possessed of manse and glebes, on obtaining which it was agreed that they should conform to the request ("*Book of the Universall Kirk of Scotland*" (Bannatyne Club, 1839-45), vol. i. p. 63): and from p. 310 it appears that, in 1574, two Senators of the College of Justice petitioned, and the Church enjoined, that the Lists of deceased should be reported to the General Assembly "to be delivered to such as shall be appointed by

the saids Lords (of the Court of Session) for receiving the same."

Two years later (1576), the order not being complied with, the Assembly was reminded of its enactment.

In order to promote the object in view, it was (*ibid.* p. 372) "thocht meitt that in every parochin ther be persons appointed to break the earth, and to make sepulchres, that sall notifie the names of the persons deceissit to the reidars, that they may present the same to the Commissioners to report to the General Assemblie."

In 1577, statements were made by certain superintendents respecting the mode in which they had fulfilled its provisions ; and in 1588 an order was issued by the Assembly, that if the poor did not show satisfactory proof of the baptism of their children they should be "refused alms by all good and charitable persons."

At Aberdeen, in 1616 (during the existence of the Episcopal form of Church Government), there was held a meeting of the General Assembly, at which a series of royal instructions were produced by the Earl of Montrose, Lord Commissioner for the King.

The royal instructions included the following :—

"That every minister have a register of baptisms, marriages, and defuncts, within the parish, to be presented to ilk synod : for doing whereof it is statute, the ministers, their wives, and executors shall have the quotts (see Erskine's "Institutes," bk. III., ix. 28), and confirmation of their testaments free."

On the day following the communication of this injunction, the Assembly being "rypelie advysit, statute and ordainit (*inter alia*), that every minister have a perfyte and formall register, quherin he sall have registrat the particular of the *baptisme* of every infant within his paroch, and quho were witnesses thereto ; the tyme of the *mariages* of all persons within the same ; and the special tyme of the *buriall* of

every ane deceisand within their parochin :” to be presented at their next synod assembly, under pain of suspension.

Here we have general provision made for a complete register of Baptisms, Marriages, and Burials : also for official copies or extracts from the same, to be used as evidence ; the Assembly having also resolved that their Commissioners should humbly crave the Sovereign “ to ordaine the extract foorth of the saids registers to make faith in all tyme comeing ” (“ Book of the Universall Kirk of Scotland,” vol. iii. pp. 1124–29). That the want of Extracts caused much trouble is obvious from a preliminary reference in an Act of the Scottish Privy Council, 10th December, 1616, to the “ grite contestatioun and pley,” and the consequent “ ydill and unnecessar chargeis and expenseis ” which arose in the judicatories of the kingdom in connection with the numerous questions “ anent the
tymes of mariageis, baptismes,
and decease of personis,”

owing to the absence of an authentic register from which authoritative extracts could be obtained.

The Act of 1616 then proceeds to ordain—“ that in every paroche of this kingdome thair sallbe ane famous book and register maid be the minister of the paroche, and presentit be him, afoir ony thing be written thair intill, to the bischope of the diocese, who sall number and mark with his awne name the haill leafis of the said register, and the same being so markit and redelyuerit to the minister, he or the reider, be his direction sall be haldin, be vertew of this present Act, to insert thair intill the

tymes and names of the persons to be maryed,
and of the

bairnes to be baptised

within the said parrochine with the witnesses of the

saidis bairnes, as alswa the

names and tymes of persons deceisand

within the same.”

Inspection and authentication were provided for by requiring the minister or reader, with two of the Kirk-Session in the case of births and marriages, and two persons present at the burial in the case of deaths, to subscribe the register-book at the close of the entries of each day ; and the minister was also required to exhibit the register annually at the synod, in order that the bishop might make a note on the last written leaf thereof, stating the number of the preceding leaves.

The Act concludes that the said register shall be “repute and haldin as famous and authentic”: and that in accordance with the desire of the General Assembly, the Extracts thereof subscribed by the minister or reader, as well as the original record, shall “mak faith in all and q^t someuer judgements within this kingdome.”

The Sederunt of the Privy Council, 10th December, 1616, included the Archbishops of St. Andrews, the President of the Court of Session, the Lord Advocate ; the Earl of Mar, High Treasurer ; and Alexander Seton, Earl of Dunfermline, Chancellor of Scotland. The Act, however, did not secure general registration.

In 1645, seven years after the re-establishment of Presbyterianism, The Directory of Public Worship, established by an Act of the General Assembly, also by a Statute of the Scottish Parliament, contains provisions respecting the proclamation and celebration of marriage, and declares that a public register of such is to be carefully kept. Nothing is said in that compilation regarding the registers of baptisms or burials. But in Steuart’s “Collections and Observations concerning the Worship, Discipline, and Government of the Church of Scotland,” book ii., tit. 3, ss. 13 and 19, it is mentioned that “a register is to be kept of the names of all baptized, and of their parents’ names and designations, and of the time of their baptism, and of the names of the witnesses thereto. And of all illegitimate

children, their names, and those of their parents, shall be likewise insert : but of such it is only said, that they are not born in lawful marriage. It is fit that the registers of Baptisms and Marriages be subscribed on each page by the minister ; or, in a vacancy, by two elders, and the clerk of the Session."

II.—LATER DEVELOPMENTS.

NATIONAL laws are born rather than made. They are the work of time. It has been well observed that the good legislator rarely invents. He makes use of the rich funds of practice and existing theory, or he intelligently imitates neighbouring nations.

The sketch here of early Registration in Scotland is thus meant mainly to show the natural growth of the idea of a general national record of Births, Marriages, and Deaths.

Ecclesiastical injunctions, it has been seen, were confined so far to Marriages and Baptisms. In 1746, however, the General Assembly passed an Act recommending and appointing "the several Kirk-Sessions to have a Register, in which they shall record the Names of every Person Dying within their respective parishes, and interred in their ordinary burying-places, and the times of their Death."

But no sufficient check was applied to the registration of Deaths and Burials, with the result that the records were generally very imperfect.

One might expect fair efficiency in the Capital. Arnot, however, in his "History of Edinburgh," published in 1779, denounces the registers of Burials, which he asserts (p. 332) were "kept by persons whose faculties are impaired by drinking . . . who have an interest in reducing the list of burials, so that they may peculate the share of the mort-cloth (or pall) money due to the charity workhouse." Unbaptised persons were omitted ; and those who died in a charity workhouse ; also those whose relations did not pay for

use of the mort-cloth. The historian of Edinburgh points out also the want of a reliable record of Births :—" True it is " (says Arnot) " a list is kept in the south side of St. Giles Church, where any person who chooses to go with a piece of money, will get the name and birth of a child inserted. But no attention is paid to the observation of this practice, either by the clergy or by parents. In our calculation, therefore," (concludes Arnot) " of the populousness of Edinburgh we set aside entirely any consideration of the Parochial Registers."

Statements to a somewhat similar effect as to other Scottish Parishes abound in the old Statistical Account of Scotland, modified by the peculiarities of certain localities. The people generally were negligent; and the records being connected with the Established Church was deterrent to Dissenters. Above all, the unwise provisions of the Act of 1783 contributed to the imperfect state of the Registers. That Act, 23 Geo. III. c. 67, imposed a stamp duty of 3d. upon the registered entry of every burial, marriage, birth, and christening. The Penalty for refusal was £5, and the same for making any entry except on stamped paper. Clergymen, and other authorised keepers of records, had to collect the duty from the proper parties. The keepers of the records were allowed 2s. in the £ as a recompense for their trouble in accounting for the same. Stamp taxes are not favoured by free Britons. Hateful and abhorred indeed was this stamp tax both in England and in Scotland. It was repealed within about eleven years; after it had caused some counties, such as Sutherland, to evade it entirely by failing to keep any register.

The Population Abstract of 1801 showed that out of 850 Parishes in Scotland which made Returns to Government not more than 99 possessed regular Registers, the rest having only occasional entries or no register whatever.

In 1816 the unsatisfactory state of the Parochial Registers

was considered in the General Assembly, who recommended that there should be kept three separate registers in each parish, to contain details of Births whether the parents were Churchmen or Dissenters; of Marriages; and of Deaths, whether the persons were buried in the parish burying-ground or elsewhere. This recommendation resulted in a record of deaths being established for the first time in many parishes: and from this time a few date their earliest commencement with any records of Births, Marriages, and Deaths. But no satisfactory improvement occurred with regard to Registration in the whole of Scotland.

In 1853, the General Assembly reported to Dr. Stark, Convener, that the Registers were inadequate to the wants of society. The existing machinery seemed sufficient—it only required to be put in motion under a proper compulsory system of Registrars and Inspectors. For this, however, legislative enactment was necessary. The effort in that direction made in 1847 by the then Lord Advocate (Lord Rutherford) failed partly because of its being conjoined with a Marriage Bill. Lord President Inglis had a Registration Bill in preparation during his brief term as Lord Advocate. A centralised system was clearly the only way to secure successful Registration: and, after repeated discussion in Parliament, such a system was inaugurated, by authority of the original Registration Act, on 1st January, 1855.

The Old Parochial Registers lend but little assistance to the study of Vital Statistics. Their statistical science is, indeed, barely on a level with that of the priest of the baptistery at Florence in the Middle Ages, who put into a bowl a black bean for each male, and a white for each female; and prepared from this *data* his annual report.

Lack of any proper record of Mortality in Scotland was much felt by medical men. In Edinburgh this want was to a certain extent supplied by the investigations of the Medico-Statistical Association instituted shortly before Registration

became compulsory. The fullest possible information in all cases coming under the notice of members was recorded in their reports, particularly of the Causes of Deaths.

The Registration Bill of 1847 was reported on in the *Journal of the Royal Statistical Society*, Vol. XI., p. 282. In England since 1837 pestilence no longer walked in the dark ; exact reliable Statistical Tables showed the correlation of cause and effect, the state of disease, the health of the people, and the progress of population. And, similarly, in Scotland the Registrar-General's Reports since 1855 lend much valuable light and guidance to Medical Officers and others in promoting Public Health.

III.—POPULATION, AND MALTHUSIANISM.

POPULATION is strength. Its healthful increase adds to a nation's progress. Mere density or number, however, is not enough ; there must be individual quality as well as numbers for real strength.

As shown in India and China, over-population has obvious evils. But no country can continue powerful without a progressive population. The later Romans went down before the incursions of the barbarians—free tribes of purer habits, who had multiplied strongly in their native North, then fittingly named *officina nationum*, the storehouse of nations.

Aristotle and Plato recommended the preservation of a fit proportion between territory and population ; an insufficient population being dangerous to the independence, and an excess to the good order, of the State. Among the means of restriction mentioned by Aristotle were late marriages,—men not to marry before thirty-seven, and the destruction of weak offspring.

The subject of population seems never to have been considered scientifically in Britain until about the end of the

eighteenth century; and the thorough treatment of the various aspects of the question arose synchronously with the large increase of the numbers of the people, and the troubles relative to sufficient food supply consequent upon the changes in national life resulting from the rapid and general development of industry. Britain had passed through the Barbaric, the Pastoral, and the Agricultural periods, and had reached an Industrial epoch, when there appeared the Essay of Malthus on Population.

Pre-Malthus Views.—Statistics of actual numbers not being available, many eighteenth-century writers came to conclusions not supported by facts, assigning, for example, an enormous population to several nations of antiquity. The opinion that the world supported a much larger number of people in ancient than in modern times was accepted by Robert Wallace (1697–1771) in his book on “Various Prospects of Mankind, Nature, and Providence,” an Edinburgh work which is said to have stimulated Malthus. Hume is more sceptical in his elaborate and very learned Essay, “Of the Populousness of Ancient Nations” (1741). He points out significantly that Diodorus Siculus, who was contemporary with Cæsar and “lived at that very period of antiquity represented generally as most populous, complains of the desolation which then prevailed, gives the preference to former times, and has recourse to ancient fables as a foundation for his opinion.” But Montesquieu believed that the ancient world *regorgeaient d’habitants*; and even the accurate Gibbon made far too large an estimate of the Roman Empire. The entire population of the Empire under Augustus is now reckoned at eighty-five millions, forty millions being in the European, and forty-five in the Asiatic provinces. Gibbon’s calculation is “one hundred and twenty millions of persons: a degree of population” (wrote Gibbon) “which possibly exceeds that of modern Europe, and forms the most numerous society that has ever been

united under one form of government" ("History of the Decline and Fall of the Roman Empire," chapter ii.).

To-day, one hundred and thirty years after the time at which Gibbon penned the foregoing sentence, the British Empire possesses a population of 440 millions.

Population appears to have been a current question in the eighteenth century. "Whether by the encouragement of proper laws the number of births in Great Britain might not be nearly doubled, or, at least, greatly increased," was a subject brought in 1763 by Professor Reid before the Aberdeen Philosophical Society. And Malthus was anticipated by a discussion, in 1766, in the same Society, upon the other view of the subject, "Whether good policy may not sometimes justify the laying a restraint upon population in a State?"

The opinion that population was stationary was expressed by Botero, and, later, by Buffon. That unsupported view appears also in the article by Damilaville in Diderot's *Encyclopédie* (1765). The sum of men, asserts the encyclopædist, taken together is to-day equal to that of an epoch of antiquity, and to that which it will be in future ages. If (he adds) there have been periods when a greater or lesser scarcity of men appeared to exist, it was not because the total number was less, but that the population was migratory, and that thus there occurred *local* diminutions of population.

Voltaire estimated, in 1753, that the globe contained sixteen hundred millions; an estimate somewhat larger than that even of its present population, for such guesses almost always exceed actuality.

In our own age of inquiry and statistics, the number of formally enumerated countries is fairly satisfactory; the principal exceptions being Africa, China, Turkey, Persia, the wild tracts of Central and South America, and the large islands of the South-Eastern Seas.

At every Census, population figures are coming more out of the region of conjecture into that of definite enumeration. The percentage of the population of Europe now enumerated regularly is nearly 99 ; of America, 93 ; of Oceania, 85 ; of Asia, 37 ; of Africa, over 12 ; and the total population of the World in 1900 was approximately, 1,583,621,000.

If the present rate of increase continues for 200 years, the population of the Globe will then reach the maximum number which it is estimated the earth can maintain under existing conditions, namely, 6000 millions.

THE ESSAY ON POPULATION.

The Treatise of Malthus was entitled originally "An Essay on the Principle of Population as it affects the Future Improvement of Society, with Remarks on the Speculations of Mr. Godwin, Monsieur Condorcet, and other Writers." The work startled the world, which had been content hitherto mostly to multiply without much scientific speculation as to the Philosophy of Population.

A mind of original cast, trained out of the ordinary mental ruts of the time, was required for an inquiry so remarkable. The British schoolboy at that period was reared upon routine, rather dulling to the edge of inquiring intellect. Such education tended to produce men suitable to administer things exactly as they are established, but not to encourage originators ; and one is not surprised to learn that Malthus was never at a public school, having been taught by private tutors. At home, the boy breathed an atmosphere of Social Philosophy. His father was a cultured gentleman of independent fortune ; a friend, and one of the executors of Rousseau.

Malthus was ninth wrangler, a Fellow of Jesus College, Cambridge, and entered the Church. The beginnings of the Essay are noteworthy. The father of Malthus, a com-

portable optimist, was inclined to the cheerful views of Godwin and Condorcet on the Perfectibility of Human Society. But, in their prolonged discussions, Malthus maintained that the perfecting of human prosperity and happiness would always be hindered by the tendency of Population to increase faster than the Means of Subsistence.

The father asked the son to put his views and arguments into writing, thereafter recommending publication: and, thus composed, the famous Essay first saw the light in 1798.

To a clear understanding of the Essay, it is advisable to glance, not only at its genesis, but also at the condition of Britain at that period; and in the early years of Malthus, when the impressions received were strongest, that condition was one of want, trouble, and transition. Industry was rising with astounding rapidity. Population was increasing at a rate regarded as alarming; while a succession of bad seasons had produced scarcity of food, and impoverished the agricultural classes. The reforming hand of Peel had not yet been laid upon the Fiscal system; and heavy Customs and Import Duties impeded exchange. Black and ominous appeared the outlook for an overcrowded community—fit time for the acceptance of the views of Malthus.

Malthusianism.—Belief that space and subsistence were abundant and unfailing explains much of the neglect of the subject of Population until the appearance of the epoch-making Essay. Much of Asia and nearly all Africa was yet unknown or unexplored. Australia was only very partially colonised; and the great American Continent seemed likely to be able to receive our superfluous sons and daughters for many centuries.

With the widening of geographical knowledge, however, it was seen that the uninhabited spaces of the globe were not so immeasurably vast as had been imagined.

Demographic conceptions altered very much also with the Fall of Feudalism, under which the chief care of every Superior, as of every Sovereign, was to have a large number of men fit to bear arms: an economic organization which became obsolete with the rise of Industry and Capitalism, revolutionising the general idea of the value of men. The conditions of the time were thus most favourable to the full acceptance of Malthusianism, of which the following are the three main propositions:—

- (a.) Population is necessarily limited by the Means of Subsistence.
- (b.) Population invariably increases where the Means of Subsistence increase, unless prevented by some very powerful and obvious Checks.
- (c.) These Checks, and the Checks which repress the superior power of Population, and keep its effects on a level with the Means of Subsistence, are all resolvable into Moral Restraint, Vice, and Misery.

As mentioned in the Chapter on THE CENSUS, Malthus had to work without reliable figures; and had the National Numbering of the People commenced a century earlier Malthus would have been saved from several statistical errors.

After the first Census (1801), Malthus brought out a revised edition of his Essay, and four following editions in 1806, 1807, 1817, and 1826.

The so-called “law” relating to the Geometrical Increase of Population formulated by Malthus has been gradually repealed. It is to the effect that—

Population, *when unchecked*, doubles in twenty-five years, increasing in geometrical ratio. The Means of Subsistence increase only in arithmetical ratio.

If the doubling dictum worked out in practice, the population of this island, 11 millions in 1800, would have been 176 millions in 1900, and would reach 325 millions in 1925!

There is much virtue, therefore, in the italicised qualifying words "*when unchecked.*" For at all times the Checks upon Mankind multiplying operate through disease, want, and war; vice, circumstance, and will.

In regard to the Means of Subsistence, the general introduction of Machinery has increased the Industrial Capacity of Mankind more than tenfold.

It is, accordingly, no longer allowable to call, even by courtesy, the hypothesis of Malthus a law. Statistics prove that his theory is in disagreement with the reliable and concrete data as to Population and Subsistence; indeed, the more complete the statistical material, the severer is the falsification and refutation of the Malthusian statement regarding Geometrical Increase.

Neo-Malthusianism.—Malthus has been a good deal misrepresented in recent times, much that is said of his views being from second-hand acquaintance. He did not deny that an increase of population is both a great positive good in itself and absolutely necessary to a further increase in the annual produce of the land and labour of any country. His opinions are thus diametrically opposed to the doctrines now popularly associated with the name of Malthus.

The Birth-rate of Britain was at its greatest about 1876; and in 1877 came into notice the doctrine promulgated by Mrs. Besant and Mr. Charles Bradlaugh, as a means of ameliorating the condition of the wage-earner. Malthus had advocated Moral Restraint; he disapproved distinctly of any immoral restraint, and this earnest and upright English Clergyman would have heard with horror the views inculcated by the so-called Malthusian League. It is, indeed, a curious irony of fate that the name of Malthus has come to be associated with practices he so expressly disowned; and against which the Medical Profession, as a body, has also generally given strong condemnatory opinion; Neo-

Malthusian practices being denounced by most doctors as degrading mentally and morally, and frequently injurious to both sexes also in physical effects.

In the very words of honest Malthus :—

“I should always particularly reprobate any artificial and unnatural modes of checking population, both on account of their immorality and their tendency to remove a necessary stimulus to industry.”

Pressure of population is an important factor in human endeavour. Were it not for this pressure, so much thought and energy would not be spent daily on the business of life, says Herbert Spencer ; and growth of mental power would not take place. Nothing but necessity could make men submit to this discipline ; and nothing but this discipline could produce a continued progression. The long-continued application of adults is accentuated in the case of those who have children by a desire to give their offspring a good start—and is thus an incentive to higher education. The scientist and the philosopher are agreed that the degree of fertility is proportionate inversely to the grade of development ; and that, therefore, higher degrees of evolution must be accompanied by lower rates of multiplication. Pressure of population has increased the ability to maintain existence, but has decreased the ability and the will to multiply. That is why the death-rate and the birth-rate are both decreasing on an average. The effect is not a uniform effect, but a general one. All may not advance under the discipline of life in these days ; but, in the nature of things, only those who do advance are successful, and survive. Those who fail and succumb are those, in the average, whose energy and strength of self-preservation are least ; while those who advance and successfully continue the race are matured by the struggle, and constitute the select of their generation. “Life is not for work and learning,” said Spencer, “but work and learning are for life.” Man’s progress in the future must lie in the development of

mind. The body has developed to a standstill (as Henry Drummond has elaborated in "The Ascent of Man"). Culture of mind tends to diminish fertility. Pressure of population disappears as its end is attained. Man's advance is complete physically. It must now be psychical. And (in Spencer's words)—"This greater emotional and intellectual development does not mean a mentally laborious life ; for, as it gradually becomes organic, it will become spontaneous and pleasurable." Action should not be repressive, but progressive. Advancing evolution must be accompanied by declining fertility, moving towards a time when the amount of life shall be the greatest possible—that is, in its highest form ; and the rate of reproduction that suited to the requirements of communities. Tendency is shown towards self-adjustment—the movement of things towards equilibrium ; a reduction of births accompanying a diminution of deaths ; the balancing of mortality and natality. The twin goals to which the biologists and philosophers point are—(1.) The Improvement of the People—Racial "Eugenics," "good breeding" in every sense of the phrase ; and (2) The Conscious and Rational Adjustment of the "Struggle for" into the "Culture of," Existence. Every one who improves himself helps on the march of the world. The average duration of life has increased, one learns from reliable statistics. We may say with Sir Thomas Browne that "The length of men's lives conduced unto the populosity of their kind."

IV.—NUPTIALITY, AND ILLEGITIMACY.

Marriages in a community are a general indication of prosperity. The marriage-rate is affected apparently, as a whole, by the value of exports, the marriages going up and down synchronously with the exports. Thus, a curve of value of exports is followed fairly closely by the fluctuations in the yearly number of marriages.

The nuptiality of a country is also affected slightly by sex-distribution. In most populations there are more women than men. But more boys are born than girls. The male death-rate, however, is higher than the female, partly because boys die at certain ages more readily than girls, and partly because men lead harder lives.

Age-distribution is also a factor. In young countries profiting by immigration, there is always a larger proportion of both men and women at the marriageable and child-producing period.

Except for waves of prosperity, the marriage-rate of Scotland is steady. It was high in 1871-75 and in 1895-99, and mainly lower in 1880 to 1894. Since 1900 it shows generally a very slightly declining tendency, partly attributed by some to an alleged delay in marrying among the upper classes. But Dr. Craufurd Dunlop says—"The falling-off of the birth-rate is not due to a diminished proportion of women of child-bearing age being married." And it seems safe, therefore, to conclude that the marriage-rate of Scotland remains fairly steady and stable.

Illegitimacy.—The Malthusian doctrines (so-called) have the unrestrained force of human passion against them. This is exhibited most strongly in the circumstances frequently attending the births of natural children: for one of the most interesting problems of population is that of bastardy. Physically speaking, it appears that illegitimacy has in it some elements of good. One of the most eminent of living biologists (Professor J. Arthur Thomson), advises people to marry early, "otherwise their love-children will never be born." And in some cases, obviously, illegitimacy is caused simply by an anticipation of the marriage ceremony. Indeed, the parents attempt not infrequently to save social scandal by marrying before the child is born.

When the offspring of parents at their bodily best, natural

children, medical men assert, are generally very viable, developing into robust men and women; of much brain and force of character. Witness William the Conqueror, and many others.

Some American sociologists bewail the high percentage of illegitimacy in Scotland. So sad, they say, that each year should see born in Scotland more than 8000 infants, the burden of bringing up whom should fall upon the dishonoured mothers! As a matter of fact, a very considerable proportion of illegitimate children in Scotland are registered upon the joint information of the mother, and the person acknowledging the paternity, who pays for the upbringing of his issue. In other instances, the mother raises an affiliation action in the Sheriff Court, and obtains a Decree of Paternity and Aliment, thus fixing upon a father and making him support the child. No statistics are published regarding the number of illegitimate children whose paternity is acknowledged; nor are there any figures showing the number legitimated by the marriage of the parents. But their numbers are considerable.

Owing to its Foundling Hospitals and other causes, Paris has a larger percentage of illegitimate births than even North-Eastern Scotland. But the French children seem to remain mostly fatherless. For, by the Code Napoléon, researches into paternity are forbidden in France. There is, however, an agitation at present in favour of altering the law, and to allow researches into paternity in the case of ordinary illegitimate children, but not of adulterine bastards.

To enter upon an examination of the effects of science, religion, literature, and morality upon population generally, would lead very far and not always on firm ground. Illegitimacy, it may be stated, however, is decreasing. The greatest number of Illegitimate Births recorded in Scotland was 11,673 in 1866, being 10·27 of the total number of births. For the quinquennium 1871-75 the average was 9·1 per cent., and in 1901-05 the percentage fell to 6·37.

Illegitimacy as a Test of Sexual Immorality.—In “Giffen’s Economic Inquiries and Studies” XIV. (In Vol. II., p. 55), On International Statistical Comparisons, after discussing statistics of crime, Sir Robert Giffen, K.C.B., proceeds :—

“The statistics bearing on sexual morality are equally difficult to handle. The test here that is most commonly used is that of illegitimacy ; but the truth is, that illegitimacy by itself tells little ; for the simple reason that in a town community there may be prostitution without illegitimate births, whereas in a rural community there may even be even less profligacy than in the town, but with a larger number of illegitimate births, in consequence of their being no prostitution. In one country also the births may be registered as legitimate, through the children being born in wedlock ; but this may go along with a general laxity of morals of a remarkable kind.

“Sexual immorality is also like crime itself, even when it can be measured on the same basis in two different communities more or less a thing apart, and it may or may not be significant of the general *morale* of the population. I suppose it is true, for instance, that the rural population of Ireland stands better, as far as statistics of illegitimacy are concerned, than that of Scotland ; but it would be a rash inference that in general *morale* the rural population of Ireland is superior to the Scotch. For certain purposes the statistics are good enough, but they must not be pushed to conclusions they do not bear.”

Obviously, the number of unmarried women at nubile age (say 15 to 45) is the proper and just basis upon which to calculate illegitimacy. The subject is alike difficult and delicate. Illegitimacy may, or may not, be a “mild form of virtue.” Certainly the foregoing quotation from Sir Robert Giffen, indicates the opinion of a mature statistician, that it may be erroneous to brand bastardy as the worst form of vice.

V.—NATALITY, AND INFANTILE DEATH-RATE.

The numbers of the births and the deaths in any civilised country can generally be obtained. It would thus, at first glance, seem easy to calculate their rates. But, in reality, it is almost impossible to do so with arithmetical exactness; the basis of calculation, the precise population at the time, being generally unobtainable. For the purposes of Reports, accordingly, it has to be assumed that the increase of the population continues at the same rate as revealed by the last Census. The birth-rate is therefore often only a very reasonable approximation, but (usually) close enough for all practical purposes. And the assumption that populations have continuity of increase (or decrease), while somewhat unreliable in the case of a small area, gives for a large community, and especially for a whole country, a fairly accurate estimate of the number of its inhabitants.

The birth-rate per thousand of the population in Scotland was 35, and in France 26·2 in 1876. In 1893, it was 31, and 22·1 respectively; while in 1902 it had fallen further, to 29·2 in Scotland, and to 22 in France, where a national danger is arising from the remarkable decrease in natality. For every 1000 married women, France gives only 115 legitimate births annually, while in Scotland the number is 205.

Greatest centre of Anglo-Saxon population, London, with its 6,700,000 inhabitants, is the largest aggregation of people in the world. It is a most interesting field for demographical study: and in the concluding volume of his "Life and Labour of the People in London," The Rt. Hon. Charles Booth gives valuable figures regarding the birth-rate and its relation to the death-rate and to class conditions.

Dividing London into fifty districts, he points out that the birth-rate in these divisions "ranges from 43·3 to 13·5

(per 1000 population per annum),” and that “Between these extremes (Whitechapel and Brompton), subject only to exceptions due to the presence of foreign or temporary residents, the gradation follows strictly the line of class. The lower the class the earlier the period of marriage, and the greater the number of children born to each marriage.” (page 19).

The question whether early marriage and numerous offspring in the poorer classes are the causes or the consequences of poverty, is answered by Mr. Booth in these words :

To my mind, while no doubt to some extent a cause, they appear more definitely as consequences (page 20). Marriage is early for social or industrial reasons, and not, as a rule, on account of recklessness, while the number of births follows almost inevitably from physical causes, partly the vigour of youth and partly the influence on physique, both with men and women of bodily labour and a spare diet . . . no reasonably possible exercise of prudence can be expected to stand against the stream.

A high birth-rate is connected in London's poor districts with a high death-rate, which is “mainly due to heavy mortality among babies and young children; later, the chances of life, though varying with the character of the employment in each class, are fairly equal, comparing one class with another. . . .

“The death of a baby tends to bring about the birth of another.” “If child mortality could be checked, the birth-rate would certainly be reduced.” I deem this opinion by Mr. Booth worthy of the emphasis of italics; the observation being one of general value and applicability.

Variation according to locality is not quite so great proportionally in the death, as in the birth-rate of London. The better-class district, Brompton, with a birth-rate of 13·5 has a death-rate of 10·9; Whitechapel, Spitalfields, &c., District,

43·3 and 25·4. Something of the same variation is observed in different districts of Glasgow, Edinburgh, Dundee, and Aberdeen. Everywhere, however, in order to get a true idea of the potentiality and the product of a place's vitality, it is necessary to consider both the births and the deaths with reference to the age-distribution of the population. Industrial and commercial causes affect this distribution, and in London, as Mr. Booth mentions, age-distribution varies very much, being affected by movements both within and from without the metropolitan area.

Many influences conspire to cause the poor to multiply almost in proportion to their poverty, and operate (says Mr. Booth, page 23 *ibid.*) in the other direction in the case of the better off, almost in proportion to their wealth. "But when we bring the death-rate into account, this law no longer holds." With the poor living under bad conditions in crowded homes the net increase is diminished. Mr. Booth's conclusion (p. 26) is optimistic: "On the whole it may fairly be expected that concurrently with a rising standard of health we may see a fall in birth-rate as well as death-rate, and thus have no cause to fear, as the result of better sanitation, that the largest natural increase in population will ever be contributed by the lowest class."

The latter portion of this conclusion is not accepted by all sociologists; and Professor Karl Pearson states his belief that "the mentally better stock of the nation is not producing itself at the same rate as it did of old; the less able and the less energetic are more fertile than the better stocks." But Professor Cunningham told the Committee on Physical Deterioration that the statement quoted was only assumption, and that, even if it were true, it mattered little, since no class can claim intellect as its special perquisite; and it was thus of little importance from what class the population was mostly recruited.

An investigation on the relation of fertility in Man to

Social Status in London, undertaken in 1906 under the guidance of Professor Pearson, tends to show that there is some truth in the opinion that in the Metropolis the lower the social and sanitary condition the higher is the birth-rate.

The more inimical the conditions are to Health the stronger is Nature's fight against extinction. The more healthy, easy, and pleasant the conditions of life the fewer generally are the children born. Districts in London of least prosperity and culture have the largest families, as we have already learnt from Mr. Booth's figures; and, accordingly, there is some apparent reason for the statement that the morally and socially lowest classes in the community are reproducing themselves with the greatest rapidity. High infantile mortality, and a high death-rate among adults, are factors, however, hard at work in the lower strata of society to prevent the higher classes from losing at once their proportion: the truest criterion being not the number of infants produced but the number of parents. One generation succeeds another, and a larger proportion of the better classes come to have children of their own.

"Fecundity at various ages is proportioned to the number of years a woman's age is under fifty," is Professor Tait's law. The mothers and fathers of the upper classes are older, marrying later; by consequence, their families must be smaller. But mere numbers do not constitute superiority. The relation between social status and birth-rate is a delicate question. It seems, however, that in London at least the reduction of the size of families is proceeding in the upper rather than in the lower end of the social scale, which is to be deplored—if it means a decrease of the more capable and stronger stock.

The Infantile Death-Rate in different social classes is, as we have seen, obtainable, in a rough way, according to locality, for London. But such figures cannot be obtained (without special research) for the United Kingdom.

While Mr. H. G. Wells was engaged upon his popular sociological work, "Mankind in the Making," the present writer had some correspondence with him on Vital Statistics, but could not supply him with the definite information desiderated, beyond the fact that infantile mortality in Scotland is less per thousand babies than in England by 25 or 26, the figures being 127 or 128 and 153.

The *male* infantile mortality in England works out to 167 children in 1000 births; in Scotland to only 140: the *female*, to 138 in England, and in Scotland to only 115. So that out of every 1000 children born in England, if they are females, 23, and if males, 27, more die than in Scotland, in the first year of life.

Infantile mortality is a blot upon the page of Scotland's public health progress. From 1855 to 1860 inclusive the average deaths per thousand births was at the rate of 122. For the decades:—

1861 to 1870	. . . . .	121
1871 to 1880	. . . . .	123
1881 to 1890	. . . . .	119
1891 to 1900	. . . . .	128

The highest infantile mortality rate of the decade 1891 to 1900 occurred in 1897—138, and the lowest in the preceding year, 1896, when it was 116.

Density of population is an important factor in the death-rate, the degree in which human beings are aggregated affecting the mortality. Dundee in 1904 had an infantile death-rate of 175, Aberdeen of 151. In the decade 1891 to 1900 the

Principal Town Districts show an infantile mortality

rate averaging	. . . . .	147
Large Town Districts	. . . . .	134
Small Town Districts	. . . . .	121
Mainland-Rural Districts	. . . . .	95
Insular-Rural Districts	. . . . .	76

The following is quoted from p. xx. of "The Supplement to the Registrar-General's 48th Detailed Annual Report":—

The wide differences between the infantile mortalities in the different groups of registration districts and the different distribution of the population in these groups in the decades, deduct from the value of the national infantile mortality rate as a real test of the increase or otherwise of this mortality. To correct for these factors the infantile mortality rates of the groups of registration districts for the 1871 to 1880 decade and for the 1881 to 1890 decade have been applied to the populations of those districts in the 1891 to 1900 decade. By the result of this calculation, it is found that if the infantile mortality rates of the groups of registration districts of the 1871 to 1880 decade had existed in this decade the deaths under one year would have numbered 163,106, or 656 fewer than what was actually the case; while had the infantile mortality rates of the 1881 to 1890 decade existed there would have been 154,361 deaths under one year in Scotland during this decade, and that is 9401 fewer than the numbers which actually occurred. The conclusion from these comparisons is that the infantile mortality of the country is an increasing quantity; and it may be partly due to a greater proportion of the population living in the Principal Town Districts where that mortality is highest, but it is partly due to a real increase of the number of children dying under one year old.

VI.—MORTALITY STATISTICS, AND THEIR LESSONS.

A Death Entry is a biography in brief. Birth Registers have a cover coloured red; Marriage Registers, green; Death Registers, black; and the last are the most important books for statistical purposes.

From the Death Register one learns the Full Name of the

Deceased ; whether he was Single, Married, or Widowed, and the Name of his Wife ; Place of Death, and his " Usual Residence," if it was elsewhere than the place of death ; his Age and Parentage ; and the Disease of which he died.

The details recorded as to Causes of Death render the Mortality Registers of primary importance to all students of our national pathology. Such *data* reveal the conditions of health and the duration of life in communities, and form the basis of Public Health action and of actuarial calculations.

Among the chief material factors influencing the Death-rate are :—Occupation, Density of Population, and Social Conditions ; Race and Heredity ; Climate and Season ; and—in several ways very important—Sanitation.

The spread of superior sanitation has exercised an increasing influence on the Death-rate since the beginning (in 1855) of Death Registration. About the year 1860 the annual mortality rate not infrequently reached 30 per thousand in the total Deaths in Eight Chief Towns—Glasgow, Edinburgh, Dundee, Aberdeen, Paisley, Leith, Greenock, and Perth. The new era of sanitation arose in 1870, when the Death-rate in the Eight Towns named was 27, and by 1876 the figure had fallen to 24 ; and at the end of the century the rate for these towns was 20. For the whole of Scotland the corresponding rates were 22, 21, and 18.

Small-pox, measles, scarlet fever, hooping-cough, diphtheria, and, especially, typhus fever, show a marked decrease ; and these are diseases mostly capable of being controlled considerably by the well-directed efforts of sanitary administration. But Infantile Mortality is a sad exception, yet (as we have seen), to the successful influences of sanitation, and the battle of Medical Officers throughout town and county against those causes operating inimically in regard to human Health.

As the illuminating guidance which shows the way to Public Health is obtained from the information mainly of

the Death records, the extreme value of accuracy in statement of Cause of Death cannot be over-emphasised. The details as to the disease must be stated correctly, otherwise the units forming the total deaths assigned to any disease will be erroneous and possibly misleading. Uniformity in classification and in practice is essential. The large volume of "Nomenclature of Diseases," issued by the Royal College of Physicians, is pathological. A classification upon rather an etiological basis is necessary for purposes of Statistics. Such a practical list of properly-assigned Causes of Death is the following, prefixed at present to books of Forms for Medical Certificates issued from the Office of the Registrar-General.

LIST OF CAUSES OF DEATH

as used in the Reports of the Registrar-General for Scotland.

N.B.—The terms printed in *italics* being the names of symptoms merely, or being otherwise objectionable, should be used, in Medical Certificates, only when precise information is wanting.

GENERAL DISEASES.

Small-pox { Vaccinated
Not Vaccinated
Doubtful
Cow-pox. Effects of Vaccination
Chicken-pox
Measles (Morbilli)
Epidemic Rose Rash, German Measles
Scarlet Fever
Typhus
Plague
Relapsing Fever
Influenza
Hooping Cough
Mumps
Diphtheria, Membranous Croup
Cerebro-spinal Fever
Simple Continued Fever
Enteric Fever
Asiatic Cholera
Epidemic Diarrhœa, Epid. or Zym.
Enteritis
Diarrhœa, Choleraic Diarrhœa
Dysentery
Malarial Fever

Hydrophobia
Glanders, Farey
Anthrax, Splenic Fever
Tetanus
Syphilis
Gonorrhœa, Stricture of Urethra
Puerperal Septicæmia, Sapræmia
Puerperal Pyæmia
Puerperal Phlegmasia Dolens
Puerperal Fever
Erysipelas
Septicæmia (not Puerperal)
Pyæmia (not Puerperal)
Phlegmon, Carbuncle (not Anthrax)
Phagedæna
Infective Endocarditis
Epidemic Pneumonia, Pneumonic
Fever
Other Septic Diseases
Tuberculous Phthisis (Pulm. Tuberculosis)
Phthisis
Tuberculous Meningitis
Tuberculous Peritonitis
Tabes Mesenterica
Lupus

GENERAL DISEASES—*continued.*

Tubercle of other Organs
 General Tuberculosis
 Scrofula
 Parasitic Diseases
 Starvation
 Scurvy
 Alcoholism, Delirium Tremens
 Opium, Morphia Habit
 Potomane Poisoning
 Industrial Poisoning { by Lead
 by Phosphorus
 by Arsenic and other
 Metals
 Rheumatic Fever, Acute Rheumatism
Rheumatism of Heart
 Chronic Rheumatism
 Rheumatic Arthritis, Rheumatic Gout
 Gout
 Carcinoma
 Sarcoma
Malignant Disease, Cancer
 Rickets
 Purpura
 Hæmophilia, Hæmorrhagic Diathesis
 Anæmia, Leucocythæmia
 Diabetes Mellitus
 Premature Birth
 Congenital Defects
 Injury at Birth
 Atelectasis
 Want of Breast Milk
Teething

LOCAL DISEASES.

DISEASES OF NERVOUS SYSTEM.

Meningitis, Inflammation of Brain
 Softening of Brain
 General Paralysis of Insane
 Insanity (not Puerperal)
 Chorea
 Epilepsy
Convulsions
 Laryngismus Stridulus
 Locomotor Ataxy
 Paraplegia and Disease of Cord
 Neuritis, Peripheral, Poly-Neuritis
 Brain Tumour (not Specific)
 Nervous System, other Diseases

DISEASES OF ORGANS OF SPECIAL SENSE.

Otitis, Mastoid Disease
 Epistaxis, Disease of Nose
 Ophthalmia, Disease of Eye

LOCAL DISEASES—*continued.*

DISEASES OF HEART.

Valvular Dis., Endocarditis (not Infective)
 Pericarditis
 Hypertrophy of Heart
 Angina Pectoris
 Dilatation of Heart
 Fatty Degeneration of Heart
 Syncope, Heart Disease (not specified)

DISEASES OF BLOOD VESSELS.

Cerebral Hæmorrhage, Embolism, Thrombosis
Apoplexy, Hemiplegia
 Aneurism
 Senile Gangrene
 Embolism, Thrombosis (not Cerebral)
 Phlebitis
 Varicose Veins
 Blood Vessels, other Diseases

DISEASES OF RESPIRATORY ORGANS.

Laryngitis
 Membranous Laryngitis (not Diphtheritic)
Croup (not Spasmodic or Membranous)
 Larynx and Trachea, other Diseases
 Bronchitis
 Lobar, Croupous, Pneumonia
 Broncho, Catarrhal, Lobular, Pneumonia
Pneumonia
 Emphysema, Asthma
 Pleurisy
 Fibroid Disease of Lung
 Respiratory Diseases, other

DISEASES OF DIGESTIVE SYSTEM.

Tonsillitis, Quinsy
 Mouth, Pharynx, Œsoph., Disease (not Specific)
 Gastric Ulcer
Gastric Catarrh
 Stomach, other Diseases (not Malignant)
 Enteritis (not Epidemic)
Gastro-enteritis
 Appendicitis, Perityphlitis
 Hernia
 Intestinal Obstruction
 Other Diseases of Intestines
 Peritonitis (not Puerperal)
 Cirrhosis of Liver
 Liver and Gall Bladder, other Diseases
 Digestive System, other Diseases

LOCAL DISEASES—*continued.*

DISEASES OF LYMPHATICS.

Diseases of Spleen
Lymphatic System, other Diseases
Disease of Thyroid Body
Disease of Supra Renal Capsules

DISEASES OF URINARY ORGANS.

Acute Nephritis, Uræmia
Chronic Bright's Disease, Albuminuria
Calculus (not Biliary)
Diseases of Bladder and Prostate
Urinary System, other Diseases

DISEASES OF GENERATIVE ORGANS.

Ovarian Tumour (not Malignant)
Other Diseases of Ovary
Uterine Tumour (not Malignant)
Other Diseases of Uterus and Vagina
Disorders of Menstruation
Gener. and Mam. Orgs., other
Diseases

LOCAL DISEASES—*continued.*

ACCIDENTS OF CHILDBIRTH.

Abortion, Miscarriage
Puerperal Mania
Puerperal Convulsions
Placenta Prævia, Flooding
Other Accident of Pregnancy and
Childbirth

DISEASES OF LOCOMOTOR SYSTEM.

Caries, Necrosis
Arthritis, Periostitis
Other Diseases of Locomotor System

DISEASES OF SKIN.

Ulcer, Bedsore
Eczema
Pemphigus
Skin Diseases, other

To help to maintain their interest in Vital Statistics, and as an acknowledgment of their services in certifying causes of death, qualified Medical Practitioners in the Eight selected Chief Towns receive from the Registrar-General copies of the Monthly Reports. These Reports give the Deaths from all causes, and show the recorded numbers of Births and Marriages. The Monthly Report publishes also "Meteorological Observations." And the Deaths are classified therein at four periods of life, 0-5, 5-20, 20-60, 60 and over. They are allocated to the various Causes, as set forth in the List printed above. It is, obviously, extremely desirable that the Certificates of Cause of Death should be in accordance with the terms of the Registrar-General's List.

In the preparation of death-rates, the question of the place or district to which the death really belongs sometimes emerges; and, in these migratory days, the question causes some trouble in both City and County. The Returns furnished by the Registrar to the County Medical Officer have a column for usual residence, from which the County, Burgh, or Parish to which the event should properly be allocated can be ascertained; so that, as far as possible, the death-rate

of the County may not be increased unduly by the inclusion of deaths due to immigration.

In the 1855 Death Registers there is a Column headed "Where Born, and How long in District." That Column had to be discarded. The matter is now covered by the instruction that when the "usual residence" of the deceased was elsewhere than at the place of death, such usual residence should be stated in Col. (2) of the Entry in the Death Register (in the manner indicated in Example No. 4 prefixed to the Death Register). The instruction adds that it is of special importance that the "usual residence" of the deceased should be inserted in Entries of Deaths occurring in Public Institutions, such as Hospitals, Asylums, Poorhouses, and the like. Such deaths in Institutions are allocated, as far as possible, to the Registration Districts (within the Cities) from which the deceased were drawn, in order to obtain the corrected death-rate for each Registration District. "Institutional Deaths" which occur in Poorhouses and Homes are, however, not easy always to allocate. The deaths of patients coming from parishes outside the boundaries of a city are generally deleted in dealing with the death-rate, in Reports by Town Medical Officers.

In France, there is recorded in a Death Entry, "*Le lieu de sa Naissance*"; and there is also the following regulation:—

"*L'officier de l'état civil doit adresser une expédition sur papier libre, de l'acte de décès, à l'officier de l'état civil du domicile de la personne décédée, s'il est connu.*"

Public Health administration problems are, however, out-with the province of the present subject. What may be mentioned briefly is its success, as indicated in the fall of the death-rate, especially in the Urban Districts. The superiority of rural life over urban has been much decreased by sanitation in towns, and there is an increase in the average expectation of existence, as exhibited in Life Tables. The death-rate for the whole of Scotland was in 1864, 23·06, and in 1903

only 16·6, a decrease occurring mainly in the Urban Districts, for in 1855 the principal Town Districts had a death-rate of 27·5, which was 14·5 more than in the Insular-Rural Districts (the lowest); while the difference, at the end of 50 years, was only 2·8. These facts give "some indication of the results of modern public health measures, for it must be due to them that the death-rates in the urban population has been reduced very nearly to the level of the death-rates of the rural population, and due to them that the risk of death as tested by the death-rate is now in towns only little greater than it is in the country."—(Detailed Annual Report of the Registrar-General, published in 1906.)

From 1855, the population of Scotland increased, in 50 years, 59 per cent. The Births increased in number 29 per cent. It is to be borne in mind, however, that Scotland loses many young people by emigration. The total Births recorded in the half century is 6,030,438, and Deaths, 3,683,478.

Reference was made in the chapter on the Registration of Deaths, to the Report of the Committee on Death Certification, which made several recommendations on the subject. It appears that Death Certificates are reported to be diminished in value sometimes in England, and perhaps in Scotland, by the difficulty of reconciling private with public interests. Reference to the susceptibilities of patients' friends operates (*The Lancet* also has more than once alleged), so as to cause the medical practitioner to conceal information obtained in the course of professional work. If popular prejudice would permit of their notification, venereal diseases would (medical authority asserts) be readily checked in their ravages. An accurate Certificate of the cause of death in cases of Alcoholism would allow of the true death-rate from alcoholic excess being prepared; but the attending physician may hesitate to give full effect in a Certificate to the part played by the poison in causing death.

To write the Certificate on a card bearing a number instead

of the name of the deceased is a method used in Switzerland. It is significant that the deaths there from *delirium tremens* in males over twenty is ten times the rate in France, as recorded. The restriction of professional propriety being removed by the card arrangement, the practitioner is enabled to express frankly his views without appearing harsh or censorious. Morally, the proverb and principle, "*De mortuis nil nisi bonum*" is beautiful; but it should not interfere with the wider considerations of public hygiene; and absolute accuracy in Death Certificates is indispensable to the full inculcation of the many valuable lessons to be learned from the local records of Deaths, and from the pictures of Life and Death in all Scotland portrayed in the various Reports of the Registrar-General.

DEATH CERTIFICATION.

The PRINCIPAL RECOMMENDATIONS in the REPORT by a COMMITTEE of the HOUSE OF COMMONS (1893) are summarised as follow :—

(1.) That in no case should a Death be registered without production of a Certificate of the Cause of Death signed by a registered Medical Practitioner, or by a Coroner after inquest, or in Scotland by a Procurator-Fiscal.

(2.) That in each sanitary district a registered Medical Practitioner should be appointed as public medical certifier of the Cause of Death in cases in which a Certificate from a Medical Practitioner in attendance is not forthcoming.

(3.) That a Medical Practitioner in attendance should be required, before giving a Certificate of Death, to personally inspect the body; but if, on the ground of distance or for other sufficient reason, he is unable to make this inspection himself, he should obtain and attach to the Certificate of the Cause of Death a certificate signed by two persons, neighbours of the deceased, verifying the fact of death.

(4.) That Medical Practitioners should be required to send Certificates of Death to the Registrar, instead of handing them to the representatives of the deceased.

(5.) That a Form of Certificate of Death should be prescribed, and that in giving a Certificate, Medical Practitioners should be required to use such Form.

(6.) That it should be made a penal offence to bury or otherwise dispose of a body, except in time of epidemic, without an order from the Registrar, stating the place and mode of disposal, which order, after it has been acted upon, should be returned to the Registrar who issued it.

(7.) That it should be made an offence to retain a dead body unburied or otherwise legally disposed of beyond a period not exceeding eight days, except by permission of a magistrate.

(8.) That the practice of burial in pits or common graves should be discontinued.

(9.) That Still-Births which have reached a stage of development of seven months should be registered upon the Certificate of a registered Medical Practitioner, and that it should not be permitted to bury or otherwise dispose of the still-birth until an order for burial has been issued by the Registrar.

(10.) That, subject always to the discretion of the Crown Office, the results of precognitions taken by the Procurators-Fiscal in Scotland, or the precognitions themselves, should be communicated to the representatives of the deceased when application is made for the same.

APPENDIX.

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THE REGISTRATION ACTS,
1854 TO 1860.

- (1.) The original Registration Act, 17 & 18 Vict. c. 80,
passed 7th August, 1854; with Schedules in use.
- (2.) The first Amending Act, 18 Vict. c. 29, 15th June,
1855.
- (3.) The second Amending Act, 23 & 24 Vict. c. 85,
6th August, 1860. Superseded Schedules.

THE REGISTRATION OF BIRTHS, DEATHS, AND MARRIAGES (SCOTLAND) ACT, 1854.

Twenty-nine Sections of this Act are repealed or affected by the two subsequent amending Statutes.

Note.—By section 5 of 48 & 49 Vict. c. 61, the powers and duties of a Secretary of State under the Registration Acts (1854 to 1860), were transferred to H.M. Secretary for Scotland; and those of the Parochial Board were transferred to the Parish Council by sec. 22 of the Local Government (Scotland) Act, 1894.

ANNO DECIMO SEPTIMO ET DECIMO OCTAVO.

VICTORIÆ REGINÆ.

CAP. LXXX.

An Act to provide for the better Registration of Births, Deaths, and Marriages in Scotland.—[7th August, 1854.]

(PREAMBLE.)

I. . . . All existing Registers of Births, Deaths, and Marriages, Existing including all such entries as may be made as aforesaid, and all Registers. Extracts and Certificates from such Registers, shall be and remain of the same legal force and effect in all respects as if this Act had not been passed.

II. . . . It shall be lawful for Her Majesty to provide a proper General office in the General Register House at *Edinburgh*, to be called Registry Office established. "The General Registry Office of Births, Deaths, and Marriages," in which shall be kept and preserved a Register of all Births, Deaths, and Marriages in *Scotland*, and to appoint under the Seal appointed Partially re- to be used in *Scotland* in place of the Great Seal thereof, the person pealed by 23 & 24 Vict. c. 85, sec. 4, and 42 & 43 Vict. c. 44, sec. 7. for the time being holding the office of the deputy of the Lord Clerk Register of *Scotland* to be Registrar-General of Births, Deaths, and Marriages in *Scotland*. . . .

The Registrar-General may appoint a Secretary.

Partially repealed by 23 & 24 Vict. c. 85, sec. 4.

Appointment of Clerks and other Officers.

Expenses of Registry Office and books, &c., how to be provided.

Affected by 23 & 24 Vict. c. 85, sec. 4; 42 & 43 Vict. c. 44, secs. 5 and 8.

Regulations prepared as to Duties of Officers.

Abstract of Registers to be laid

III. It shall be lawful for the Registrar-General, with the approbation of the Commissioners of Her Majesty's Treasury, of the United Kingdom of *Great Britain and Ireland* for the time being, to appoint a Secretary, who may act in his absence with all the powers and in the discharge of all the duties hereby given to or imposed upon the Registrar-General. . . .

IV. It shall be lawful for the Registrar-General, with the approbation of the said Commissioners of Her Majesty's Treasury, to appoint such Clerks, Officers, and Servants as shall be deemed necessary to carry on the business of the General Registry Office, and at pleasure, with the like approbation, to remove them or any of them, and, with the like approbation, to fix the salaries of such clerks, officers, and servants, according to the duties and services which they may have respectively to perform.

V. The salary of the Registrar-General and Secretary, and all the expenses of the General Registry Office, including the expenses of Clerks, Officers, and Servants, and of books and stationery, and of making and copying Indexes and Inventories, and in relation to Sessional Registers or private Burial Registers, and all expenses incurred from time to time, in the publication and transmission of Notices in pursuance of this Act, or otherwise, under the directions and by the authority of the Registrar-General, or of the Sheriff, and all other expenses connected with the business of the said office not herein otherwise provided for, shall be paid by the said Commissioners of Her Majesty's Treasury out of any monies to be hereafter voted by Parliament for that purpose.

VI. One of Her Majesty's Principal Secretaries of State, or the Registrar-General with the approbation of such Principal Secretary, shall, and may from time to time make regulations for the management of the General Registry Office, and for the discharge of the duties of the Registrar-General, Clerks, Officers, and Servants of the said office, and of the Registrars and Assistant Registrars herein mentioned, so that such regulations be not contrary to the provisions of this Act; and the regulations so made and approved shall be binding on the Registrar-General and Secretary, and the Clerks, Officers, and Servants, and on the Registrars and Assistant Registrars; and a copy of all such regulations shall be laid before both Houses of Parliament within six weeks after the same are approved of, or if Parliament shall not be then sitting, within one month after the commencement of the next session.

VII. The Registrar-General shall transmit once in every year to Her Majesty's Secretary of State for the Home Department a General

Abstract of the numbers of Births, Deaths, and Marriages registered annually during the foregoing year, in such form and at such date as such Secretary shall from time to time prescribe; and every such annual general abstract shall be laid before Parliament within one month after receipt thereof, or if Parliament shall not be then sitting, within one month after the commencement of the next session. before Parliament.

VIII. A Registrar of Births, Deaths, and Marriages shall be elected in manner herein-after provided by the Parochial Board of each parish (including the several parishes erected or to be erected under the provisions of an Act passed in the seventh and eighth year of the reign of Her present Majesty, chapter forty-four)* not being a burgh or part of a burgh, appointed and acting under an Act passed in the eighth and ninth year of the reign of Her present Majesty, chapter eighty-three,† and such Parochial Board shall be the judges of the qualification of persons to be elected to the Office of Registrar. . . . Registrar for each parish to be elected. *This and some subsequent sections affected by 18 Vict. c. 29, sec. 4, and by 23 & 24 Vict. c. 85 sec. 5.*

IX. The meetings of the Parochial Board in any such parish for the trial of the qualifications and the election of a Registrar shall be called by the Inspector of the Poor acting under the said Act, by the direction either of the Sheriff or of the Parochial Board, in such and the like manner as the ordinary meetings of the Parochial Board are called under the said Act, and such meetings shall be called and held forthwith after the passing of this Act; and such Inspector shall within six days after a vacancy in the office of Registrar of the parish of which he is Inspector shall become known to him, apply to the Sheriff or the Parochial Board to appoint a time and place for a meeting of the Parochial Board for the purpose of electing a Registrar to supply such vacancy; and in case there shall happen to be no Inspector for the time, the Chairman of the Parochial Board shall make such application to the Sheriff, or shall himself appoint a time and place for such meeting: Provided, that if the vacancy be caused by the death of a Registrar who was a schoolmaster, it shall be competent to the Sheriff, or, with the consent of the Sheriff, to the Parochial Board, or chairman calling the meeting, to postpone the election, for any period not exceeding four months, until the election of the successor of such schoolmaster. Meetings regarding election of Registrar to be called by the Inspector of the Poor; or, if no Inspector by Chairman.

X. If it shall at any time appear to the Sheriff that it is desirable that any parish should be divided, or that two or more parishes or portions of parishes should be united into one district, the Sheriff may divide such parish or unite such parishes or portions of parishes into Parishes may be divided or united.

* New Parishes (Scotland) Act, 1844.

† Scottish Poor Law Act, 1844.

Affected by 18 Vict. c. 29, sec. 1 (repealed by 23 & 24 Vict.

c. 85, Sec. 1),
and by 23 &
24 Vict. c.
85, sec. 5.

one or more districts as he shall think fit, and each such district shall be held to be and be a separate parish for the purposes of this Act; and the Sheriff shall fix the distinctive name by which each such district shall be called for the purposes of this Act; and a written or printed notice of such division or union, setting forth such distinctive names, shall be affixed on the doors of all the known places of public worship within the parish or parishes thereby affected for three consecutive weeks before such division or union shall come into operation, and be published twice a-week for three consecutive weeks in two newspapers published or usually circulated in the parishes or in the county in which the same are situated: Provided always, that any Session-Clerk who, under the provisions of this Act, would be entitled to be Registrar of any parish, shall be the Registrar of such one of the said districts as shall be appointed by the Sheriff.

Sheriff
may annex
small por-
tion of a
parish to
the parish
adjoining.

XI. It shall be lawful for the Sheriff, if he shall deem in expedient, in order to avoid any doubt as to the boundary of a parish or otherwise, to annex, for the purposes of this Act, any small portion of a parish to an adjoining parish: Provided always, that any charges payable out of the Parochial Funds for Registrations in respect of such portion so annexed shall be payable and paid by the parish from which such portion is detached to the parish to which the same is annexed: Provided also, that the Parochial Board of the parish from which such portion is taken shall have no voice in the election of the Registrar of the parish to which the same is annexed.

Election of
Registrar
by Paro-
chial
Board,
(now
Parish
Council).

Affected by
23 & 24 Vict.
c. 85, sec. 9.

XII. . . . When there shall be a vacancy in the office of Registrar, the Parochial Board shall, subject to the provisions herein-before contained, by a majority of the votes of the members present at a meeting specially called for the purpose, elect the Registrar of the parish or district; and in case any dispute or difference shall arise as to the voting or majority of votes at such Election, or any other proceedings connected therewith, the same shall be settled summarily by the Sheriff on hearing verbally the parties or their agents; and in all cases of temporary vacancy of the office of Registrar, by death or otherwise, the Sheriff shall appoint an Interim Registrar, who shall, during the time he shall act, have the like powers and be bound to discharge the like duties as the Registrar; and in all cases of the election or appointment of a Registrar or Interim Registrar, such election or appointment shall, within ten days thereof, be intimated in writing to the Registrar-General by the Parochial Board or the Sheriff, as the case may be.

XIII. In case there shall not be a Parochial Board acting under the said Act in any parish or district at the time when this Act shall come into operation, or at any time thereafter, in which it is necessary to elect a Registrar under this Act, the heritors shall, subject to the approbation of the Sheriff, appoint a Registrar therein.

Where there is no Parochial Board Heritors appoint Registrar.

XIV. It shall be lawful for every Registrar, with the approbation of the Parochial Board, or where there is no Parochial Board with the approbation of the Sheriff, to appoint, by a writing under his hand, a fit person, for whom he shall be responsible, to be his assistant in case of his illness or unavoidable absence, or otherwise ceasing to hold his office, until the appointment of another Registrar, and also to act in all cases where such assistant may be authorised or required so to do by any regulation to be made in virtue of this Act, and it shall also be lawful for such Registrar, with the like approbation, to dismiss such Assistant ; and the entries made in the Registers of Births, Deaths, and Marriages herein-after mentioned, and extracts made therefrom, and the duties performed by such assistant Registrar, shall be of the like force and effect as if made or performed by the Registrar : Provided always, that each folio or page of such Registers on which any entry shall be made shall be signed by the Registrar, and every such entry shall be authenticated by him, by affixing his initials thereto, unless where the Registrar shall by indisposition or other sufficient cause be unable to act, in which case such assistant shall sign and authenticate such Registers, and the entries therein.

Registrar may appoint assistant.

XV. No Registrar shall acquire any vested right in or to his office by virtue of his appointment ; and in case any Registrar shall fail or neglect or refuse to discharge the duties of his office, or shall be unfit or incompetent to discharge such duties, it shall be lawful for the Parochial Board to make application to the Sheriff for his removal from his office of Registrar, and the Sheriff shall thereupon hear parties, and take such proceedings in reference to such application as he shall think fit ; and if the Sheriff shall be of opinion that such Registrar has failed or neglected or refused to discharge the duties of his office, or is unfit or incompetent to discharge such duties, the Sheriff shall remove such Registrar from his office of Registrar, and shall direct notice of such removal to be forthwith sent to the Parochial Board, and to be published in the parish of which he was the Registrar, in such manner as the Sheriff shall direct ; and such Registrar shall, from and after such publication, cease to hold his office under this Act, and shall be incapable of being re-appointed thereto, and the Parochial Board shall, in manner herein provided, elect a Registrar to supply the vacancy caused by such removal ; and

Registrars not to acquire vested rights in their offices, and to be subject to removal.

Affected by
18 Vict c.
29, sec 2.

the judgment of the Sheriff in all such cases shall be final, and not subject to review in any court or by any process whatsoever.

Stamp
Duty.

*Extended by
18 Vict. c.
29, sec. 9.*

Remunera-
tion of
Registrar.

*Affected by
secs. 17 and
18, 23 & 24
Vict. c. 85.*

XVI. The appointments of the Registrar-General, and Secretary, and of the several Registrars and assistant Registrars under this Act, and the certified copies of Registers, Extracts, and Certificates* herein mentioned, shall be exempt from all Stamp Duties.

XVII. The Registrar shall be entitled to demand, in respect of Registration and the other duties required to be performed by him under the provisions of this Act, the several fees herein authorised to be taken, and shall keep a correct account of all sums received by him in virtue of this Act in the course of each year, and shall, within ten days after the thirty-first day of *July* yearly, deliver or transmit a copy of such account up to the said thirty-first day of *July*, authenticated by him, to the Sheriff, to be preserved in the Sheriff-Clerk's office, and to be furnished by the Sheriff to the Registrar-General, and, if required, to one of her Majesty's Principal Secretaries of State.

XVIII. . . . [Repealed by 23 & 24 Vict. c. 85, sec. 1 (sec. 6 of that Act being substituted.)]

XIX. . . . [Repealed by 23 & 24 Vict. c. 85, sec. 1 (sec. 7 of that Act being substituted.)]

Private
Burial
Registers.

XX. And whereas Registers are kept at various burial grounds and cemeteries which are private property and maintained at private expense, and are necessary towards the protection of the rights of the owners thereof, such Registers shall, upon proof to the satisfaction of the Sheriff to the above effect, remain with the proprietors thereof. . . .

XXI. The Sheriff of each County shall have the control and superintendence of the Registrars of the several parishes and districts within such County: Provided, that where a parish shall be situated in more Counties than one, such parish shall, for the purpose of this Act, be held to be within the County in which the parish church is situated.

Sheriff to
control
Registrars.

*This and
other Sec-
tions,
affected by
18 Vict. c.
29, sec. 8.*

Register
Boxes and
fireproof
places (or
safes) to be
provided.

*Affected by
23 & 24 Vict.
c. 85, sec. 8.*

XXII. The Registrar-General shall furnish to the Registrar of every parish a strong iron box, to hold the Registers, copies of Registers, and all other records, papers, or documents connected with such Registers, in the custody of the Registrar, and every such box for each Registrar shall be furnished with a lock and two keys, and no more, and one of such keys shall be kept by the Registrar, and the other key shall be kept by the Sheriff; and the Register Books of each parish, while in the custody of the Registrar, and not in use,

* By 23 Vict. c. 15, sec. 9, a stamp duty of 1d. was imposed on ordinary extracts.

shall be always kept in the Register box, which shall always be left locked ; and where, from the number of Register Books, such Boxes may not be sufficient to contain the same, such Register books shall be deposited and kept in fireproof places approved of by the Sheriff, which shall be kept locked as such boxes are hereby required to be.

XXIII. Upon the application of the Register-General, there shall be furnished to him from time to time, from Her Majesty's Stationery Office, all such stationery, books, certificates, schedules, notices, and forms as shall be necessary in the execution of this Act, and as the Registrar-General shall require and direct, and the Register Books shall be of durable materials, and in them shall be printed upon each side of every leaf the heads of information herein required to be known and registered of births, deaths, and marriages respectively, and every page of each book shall be numbered progressively by printed numbers from the beginning to the end of the book, beginning with number one ; and each such page shall be ruled and filled up according to the form given in the three several schedules (A), (B), and (C) hereunto annexed, and each separate entry shall be numbered at the beginning thereof with successive numbers, beginning with number one ; and the Registrar-General shall furnish to the Registrar of every parish or district a sufficient number of register Books of Births, and of Register Books of Deaths, and of Register Books of Marriages, and of certificates, schedules, notices, and forms.

XXIV. In every case in which any Registrar, Interim Registrar, or Assistant Registrar shall die or be removed from or resign or otherwise cease to hold his office, all Register Boxes, Keys, Books, Documents, and Papers in his possession as Registrar, Interim Registrar, or Assistant Registrar, or which shall come into the possession of his representatives, shall be delivered up as soon as conveniently may be to his successor in office, or to such other person as the Parochial Board or the Sheriff shall direct ; and if any person shall refuse to give up any such box, key, book, document, or paper in such case as aforesaid, it shall be lawful for the Sheriff of the County where such person shall be or reside, upon summary application made for that purpose by the Parochial Board or any one authorised by them, or without such application, to issue a warrant for bringing such person before such Sheriff ; and upon such person not appearing or not being found, it shall be lawful for the Sheriff to hear and determine the matter in a summary way ; and if it shall appear to him that any such box, key, book, document, or paper is in the custody or power of any such person, and that he has refused or wilfully neglected to deliver the same, the Sheriff is hereby authorised and required to commit

Books,
Schedules,
and Forms,
to be pro-
vided by
H.M.
Stationery
Office.

On death
or removal
of Regis-
trar, Regis-
ter Boxes,
Books, &c.
to be
delivered
up to
successor.

such person to the common gaol of such county, or to any legal gaol or place of confinement within the same, near the place where such person may be or reside, there to remain without bail until he shall have delivered up the same, or until satisfaction shall have been given in respect thereof to the person in whose custody the same ought to be, or to the Parochial Board.

Registrars to dwell in parish, and put their names on their houses.

(Partially repealed by 23 & 24 Vict. c. 85, sec. 9.)

XXV. The Registrar and Assistant Registrar shall dwell or have a known place of business within the parish or district of which he is Registrar or Assistant Registrar; and every Registrar shall cause his name, with the addition of Registrar for the parish or district for which he shall be so appointed, to be placed in some conspicuous place outside of or on or near the outer door of his own dwelling-house, or of his usual place of business if different or apart from his dwelling-house. . . .

Registrar to learn and register births and deaths, and to send transcript to Registrar of Parish of domicile in birth cases.

XXVI. Every Registrar shall, subject to the regulations to be made as aforesaid, be, and he is hereby, authorised and required to inform himself carefully of every birth and death which shall happen within his parish or district, and to learn and register, as soon after the event as conveniently may be done, and without fee or reward, save as herein-after provided, in one of the said Register Books, the particulars required to be registered, according to the forms in the schedules (A) and (B) hereunto annexed respectively, touching every such birth or every such death, as the case may be, every such entry being made in order from the beginning to the end of the book as aforesaid; and in case of the parish of the birth being different from the parish of the domicile of the parents of the child, the Registrar of the parish of the birth shall, within eight days after the entry of the birth in his Register, transmit a copy of such entry to the Registrar of the parish of the domicile, if known to him, and the Registrar of the parish of the domicile shall forthwith transcribe such entry in the Register of such parish, and mark on the margin of such entry the name of the parish of the birth.

Parents, &c., to give information of births, and to sign the Register within twenty-one days; or three months.

XXVII. The parents or parent, or, in case of the death or inability of the parents, the person in charge of any child born, and the occupier of every house or tenement in which to his or her knowledge any birth shall take place, and the nurse present at such birth, and in the case of an illegitimate child the mother of such child, or in case of the death, illness, or inability of the mother, the person in charge of such child, or the occupier of the house or tenement in which to his or her knowledge the child was born, or the nurse present at the birth of such child, shall, within twenty-one days next after the day of such birth, and under a penalty not exceeding twenty shillings in case of

failure, attend personally and give information to the Registrar of the parish or district in which the birth occurred, to the best of his or her knowledge and belief, of the several particulars required by the Schedule (A) hereunto annexed to be registered touching such birth, and shall in presence of the Registrar sign the Register; and in the event of failure or neglect so to give information, such parents and persons above specified, and also any other person having knowledge of the particulars, shall, upon being required personally or by written requisition, within three months after the date of such birth, and under a penalty not exceeding forty shillings in case of failure, attend personally and give information to the Registrar of the parish in which such birth occurred, according to the best of his or her knowledge and belief, of the several particulars by the said Schedule (A) required to be registered touching the birth of such child, and shall sign the Register in the presence of the Registrar.

XXVIII. In case of any doubt existing as to the sex or regarding the birth of any child, it shall be lawful for the Registrar to require the production of the child, and the parents or any person in charge of the child shall be bound to produce it to the Registrar, unless prevented by the illness of the child, or other reason satisfactory to the Registrar, under a penalty of forty shillings in case of non-compliance. Registrar may require any child to be produced.

XXIX. In case any person shall find exposed any new-born child, or the dead body of any new-born child, such person shall forthwith give notice of the finding of such exposed new-born child, or the dead body of such new-born child, to the Registrar of the parish or district, or to the Inspector of the Poor thereof, or to the District Constable, and such Registrar or Inspector or District Constable shall give the like notice to the Procurator-Fiscal; and any such person, or Registrar, or Inspector, or District Constable, failing to give the notice hereby required, shall be liable in a penalty not exceeding forty shillings. Intimation of finding new-born child or dead body of new-born child.

XXX. . . . [Repealed by 23 & 24 Vict. c. 88, secs. 37 and 54, which, except as to H.M. Ships, were repealed by sec. 254, 57 & 58 Vict. c. 60 (Merchant Shipping Act.)] * Register of children born at sea.

XXXI. After the expiration of three months following the day of the birth of any child it shall not be lawful for any Registrar to register such birth save as herein provided; and in case the birth of any child shall not have been registered according to the provisions herein-before made, it shall be lawful for either of the parents of any legitimate child, and for the mother of any illegitimate child, or for the guardians of any legitimate or illegitimate child, to make a Sheriff's warrant required for registration after three months from the birth.

Partially repealed by 23 & 24 Vic c. 85, sec. 1

* Sec. 254 of 57 & 58 Vict. c. 60 is printed in Appendix, *infra*.

declaration in writing before the Sheriff of the particulars required to be registered touching the birth of such child, according to the best of his or her knowledge and belief, and it shall thereupon, with the authority of the Sheriff, be lawful for the Registrar to register the birth of such child according to the information of the person making such declaration; . . . and for every such registration the Registrar shall be entitled, unless the delay shall have been occasioned by his default, to a fee of two shillings from the person requiring such birth to be registered; and no register of births, except in the case of children born at sea, shall be admissible in evidence to prove the birth of any child wherein it shall appear that more than three months have intervened between the day of the birth and the day of the registration of the birth of such child, unless the entry shall be signed by the [District Examiner]; and every person who shall knowingly register or cause to be registered the birth of any child otherwise than herein provided, after the expiration of three months following the day of the birth of such child, shall forfeit and pay for every such offence a sum not exceeding five pounds.

Name
given in
baptism
after Re-
gistration
may be re-
gistered
within six
months.

Affected by
23 & 24
Vict. c. 85
secs. 12 and
13.

XXXII. If any child whose birth shall have been registered as aforesaid shall have any name given to it in baptism, or shall have the name by which it may have been registered altered in baptism, the parent or guardian of such child, or other person procuring such name to be given, may, if such name shall be given within six months after such Registration, or if beyond six months, then only with the written authority of the Sheriff, granted on a statement of the circumstances submitted to him, procure and deliver to the Registrar in whose custody the register of the birth of the child shall be, a certificate, according to the Form of Schedule (D) to this Act annexed, or to the like effect, signed by the minister who shall have administered the sacrament of baptism, which certificate such minister is hereby required to deliver as soon as may be after the baptism, or, whenever the same shall be demanded, within six months, or if after six months, then with the authority of the Sheriff, as aforesaid; and the Registrar, upon the receipt of such certificate, and on payment of the fee of one shilling, to which he shall be entitled, shall, without any erasure of the entry of the birth in the Register, forthwith insert the name by which the child was baptised in the Register, and shall, after entry of the name in the Register, certify upon the certificate the fact of the name being so entered; and in case the duplicate Register in which such entry is recorded shall have been transmitted to the Registrar-General as hereinafter directed, the Registrar shall transmit the certificate through the Post Office to the Registrar-General, who shall cause the

like entry of the name to be made in the certified copy of the Register in the General Registry Office, and shall preserve the certificate.

XXXIII. In the case of any child of parents not recognising the sacrament of baptism or infant baptism, it shall be lawful for such parents or the guardians of such child, within six months after the birth of any such child shall have been registered, or if after six months, then only with the written authority of the Sheriff, granted on a statement of the circumstances submitted to him, when any name shall have been given to any such child by the parents or guardians of such child, other than that by which it may have been registered, to deliver to the Registrar in whose custody the register of the birth of such child shall be, a certificate in the Form of the Schedule (E) to this Act annexed, or to the like effect, signed by such parents or guardians, whereupon, and upon payment of a fee of one shilling, such Registrar shall, without erasure as aforesaid, register therein the name of such child; and such certificate shall be certified and transmitted by the Registrar to the Registrar-General in the like manner and to the like effect as is hereinbefore prescribed regarding certificates in relation to names given in baptism.

Provision for name given without Baptism after Registration.

Affected by 23 & 24 Vict. c. 85, secs. 12 and 13.

XXXIV. There shall be produced to the minister or other person officiating in the administration of the sacrament of baptism of any child a certificate of the Registration of the birth of such child, and failing such production such minister or other person shall forthwith intimate the baptism of such child, with all the information which he may have regarding the birth and parentage of such child, to the Registrar of the parish in which the parents of such child reside.

Minister, on non-production of certificate of Registration of birth to send notice to Registrar.

XXXV. In the case of an illegitimate child it shall not be lawful for the Registrar to enter the name of any person as the father of such child, unless at the joint request of the mother and of the person acknowledging himself to be the father of such child, and who shall in such case sign the Register as Informant along with the mother: Provided always, that when the paternity of any illegitimate child has been found by decree of any competent Court, the Clerk of Court shall, within ten days after the date of such decree, send by post to the Registrar of the parish in which the father is or was last domiciled, or in which the birth shall have been registered, notice of the import of such decree in the Form of the Schedule (F) to this Act annexed, or to the like effect, under a penalty not exceeding forty shillings in case of failure; and on receipt of such notice the Registrar shall add to the entry of the birth of such child in the Register the name of the father and the word "Illegitimate," and shall make upon the margin of the Register opposite to such entry a note of such decree

Name of father of illegitimate child not to be entered unless at request of father and mother; but if paternity or legitimacy of child fixed by decree of Court, the Clerk to notify same to the Registrar.

Affected by 18 Vict. c.

29, sec. 5 ;
and also by
23 & 24
Vict. c. 85,
sec. 13.

and of the import thereof ; and in like manner in the event of any child registered as illegitimate being subsequently found by decree of any competent Court to be legitimate, the Clerk of Court shall notify such decree to the Registrar, in the Form, as nearly as may be, of the said Schedule (F), who shall forthwith make upon the margin of the Register in which the birth is entered, and opposite to such entry, a note of such decree and of the import thereof, under a penalty not exceeding forty shillings in case of failure.

Correction
of Regis-
tration of
Children
legitimat-
ed *per sub-
sequens
matrimo-
nium*.

Affected by
23 & 24 Vict.
c. 85, sec. 13.

XXXVI. In the event of any child, registered as illegitimate, being legitimated *per subsequens matrimonium*, the Registrar of the parish in which the birth of such illegitimate child was registered shall, upon production of an extract of the entry of such marriage in the Register of marriages, note on the margin of the Register opposite to the entry of the birth the legitimation of such child *per subsequens matrimonium*, and the date of the Registration of such marriage : Provided always, that in all cases in which the paternity of such illegitimate child shall not have been registered in manner herein-before provided as having been acknowledged, or as having been determined by decree, the Registrar shall not note any such legitimation or marriage opposite to the entry of the birth of such child unless authorised so to do by warrant of the Sheriff granted upon the joint application of both parents, of which intimation shall be made as such Sheriff may direct, and after due inquiry, and hearing any parties having interest who may appear to oppose such application.

Extract
of entry of
birth to be
given.

XXXVII. When any entry of a Birth shall be made in a Register, upon the information of any person required to give information under this Act, the Registrar on making such entry shall give or transmit by post to the informant, within two days after the date of the entry, an extract thereof, without payment of any fee, under a penalty not exceeding forty shillings in case of failure.

Persons
present,
&c. to give
informa-
tion of
Death, and
to sign the
Register
within 8
days or 14
days.

XXXVIII. The nearest relatives present at the death of any person, and the occupier of the house or tenement in which the death took place, and if the occupier be the person who shall have died, his nearest relatives and the inmates of the house or tenement in which such death shall have taken place, shall, within eight days next after the day of such death, and under a penalty not exceeding twenty shillings in case of failure, attend personally and give information to the Registrar of the parish in which such death occurred, to the best of his or her knowledge and belief, of the several particulars required by the Schedule (B) hereunto annexed to be registered touching such death, and shall in presence of the Registrar sign the

Register; and in the event of failure and neglect so to give information, such persons, and any other person having knowledge of the particulars, or if such death shall not have taken place within a house, then every person present at such death or having a knowledge of the circumstances attending the same, shall, upon being required personally or by written requisition, within fourteen days after the date of such death, and under a penalty not exceeding forty shillings in case of failure, attend personally and give information to the Registrar of the parish in which such death occurred, according to the best of his or her knowledge and belief, of the several particulars by the said Schedule (B) required to be registered touching such death, and shall sign the Register in presence of the Registrar.

XXXIX. In the event of any person dying not in a house or tenement the occupier of the house or tenement in which such person was at the time lodging or residing, or if the person dying shall have been the occupier, then the inmates of such house or tenement, upon respectively receiving information of such death, shall, within twenty-four hours thereafter, give or cause to be given notice thereof to the Registrar of the parish within which the deceased lodged or resided, under a penalty not exceeding forty shillings in case of failure; and if it shall not be known where the deceased lodged or resided, any person present at the death or finding the body, and any parish or public officer, or any party to whom the body shall be brought, and who shall receive the same, shall in like manner, and under the like penalty in case of failure, be bound to give the like notice thereof to the Registrar of the parish in which the body shall be so found, or in which it shall be so received, and the Registrar shall immediately thereupon communicate such notice to the Procurator-Fiscal, under a like penalty in case of failure; and in case the Procurator-Fiscal shall receive such notice from any other person than the Registrar, the Procurator-Fiscal shall, within three days, communicate such particulars as are by this Act required to be registered, so far as within his knowledge, to the Registrar.

In case of persons dying not in a house.

XL. Provided always, that in every case in which a precognition touching the death of any person shall be held, the Procurator-Fiscal, having regard to the particulars herein required to be registered concerning the death, shall, in such form and manner as shall be prescribed by the Sheriff, with the approbation of the Lord Advocate, inform the Registrar of the result of such precognition, and the Registrar shall, without requiring the Procurator-Fiscal to sign the same, make the entry accordingly, stating the Procurator-Fiscal as his informant.

Procurator-Fiscal to give result of precognition.

Medical
Attendant
to transmit
certificate
of death
to the Re-
gistrar.

*Affected by
23 & 24 Vict.
c. 85, sec. 14.*

XLI. The medical person who shall have been in attendance during the last illness, and until the death of any person, shall, within fourteen days after the death of such person, and under a penalty not exceeding forty shillings in case of failure, transmit to the Registrar a certificate of such death, in the form of the Schedule (G) hereunto annexed, the particulars of which shall forthwith be entered by the Registrar in the Register, and the Registrar shall from time to time furnish gratis to every medical person within his parish or district known to him, or who shall require the same, the necessary copies of such certificate.

XLII. . . . [Repealed by 23 & 24 Vict. c. 85, sec. 1.]

XLIII. . . . [Repealed *vide* Sec. XXX. *supra*.]

Deaths at
sea.

Registrar
to give Cer-
tificate of
Registration
of
Death to be
delivered
at inter-
ment.

XLIV. The Registrar, immediately upon registering any Death, or as soon thereafter as he shall be required so to do, shall without fee or reward deliver to the Informant, for the use of the undertaker or other person having charge of the funeral, a certificate under his hand, according to the form of Schedule (I) to this Act annexed, that such death had been duly registered; and such certificate shall, under a penalty not exceeding ten pounds in case of failure, be delivered by such undertaker or other person to the person having the charge of the churchyard, cemetery, church, chapel, aisle, vault, or other place of interment, or having the control, management, or superintendence of the burial of the dead in the place of interment in which the body is to be buried, previous to the interment taking place; and if any dead body shall be buried for which no certificate shall have been so delivered, the person having charge of such churchyard or other place of interment shall within three days thereafter, under a penalty not exceeding twenty shillings in case of failure, give notice thereof to the Registrar of the parish in which such death shall have happened, according to the form of Schedule (H) to this Act annexed.

Registrar
may re-
quire Par-
ties to at-
tend him to
give Infor-
mation.

XLV. If the parties bound to give information to the Registrar for completing his Register shall not attend him for that purpose, he shall make intimation to them requiring them to attend him for such purpose at his place of abode or known place of business where the Register is kept at an hour to be fixed in such intimation, between the hours of eight of the clock in the morning and six of the clock in the evening; and in case of their failing to attend, then the Registrar shall make a second intimation to the like effect, and if the parties shall again fail to attend, the Registrar shall apply to the Sheriff, who, upon evidence to his satisfaction of such failure after two successive intimations as aforesaid, shall issue his warrant for compelling

the attendance of the parties so failing, which may be executed by any Sheriff Officer; and if the expenses of such warrant shall not be recovered from the parties failing to attend as aforesaid, it shall be lawful for the Registrar to include the same in the account to be furnished by him to the Parochial Board as herein-after directed.

XLVI. In all cases of regular marriages . . . a copy of the said Schedule (C) . . . upon the solemnisation of the marriage . . . having all the information thereby required inserted therein, shall be produced to the minister solemnising the marriage, or to the person solemnising any marriage according to the rites and forms respectively observed by Jews and Quakers, or shall be filled up in the presence of such minister or person, and shall be signed by the parties contracting the marriage, and by the witnesses, male or female, present hereat, not being less than two, and also by the minister or person officiating, and be delivered to the parties contracting the marriage, who shall within three days thereafter either deliver or send by post such Schedule to the Registrar of the parish wherein the marriage was solemnised; and the husband, and failing the husband the wife, shall in case of failure so to deliver or send such Schedule be liable in a penalty not exceeding ten pounds; and upon being received by the Registrar, the particulars of such Schedule shall be forthwith entered by him in the duplicate Registers; and all such Schedules . . . shall be transmitted . . . with the duplicate Registers to the Registrar-General, for preservation in the General Registry Office.

Registration of Regular Marriages.

Partially repealed by 23 & 24 Vict c. 85, sec. 15.

XLVII. It shall be competent to the persons intending to contract marriage to require the Registrar of the parish to attend at the solemnisation thereof, at any place within such parish; and such Registrar is hereby required, upon a written notice of forty-eight hours given to him to that effect, to attend with the Register Book accordingly, and to make the proper entry therein, and for such attendance and entry the Registrar shall be entitled to a fee of twenty shillings, besides the sum of sixpence for each mile which such Registrar shall be obliged to travel in going from his place of abode to the place of such marriage.

Registrar to attend parties when required to register marriages.

XLVIII. In the event of any persons being convicted before any Justice of the Peace or Magistrate of having irregularly contracted a marriage, it shall be lawful for either of the parties to such irregular marriage, and they are severally hereby required, to register such marriage in the parish in which such conviction shall have taken place; and in case of any marriage being established by a Decree of Declarator of any competent Court, it shall be lawful for either of the parties to the action in which such decree was pronounced to

Marriages of persons fined for irregular marriages and Marriages established by Decree of Declarator to be registered.

*Affected by
19 & 20 Vict.
c. 96 sec. 3.*

register such marriage in the parish of the domicile of such parties, or the parish of their usual residence; and the production to the Registrar of an extract of such conviction or Decree of Declarator shall be sufficient evidence and warrant for the registration of such marriages, on payment to the Registrar of a fee of twenty shillings.

*Convictions in
irregular
marriages
and Decrees of
Declarator
of Mar-
riages to
be inti-
mated to
Registrar.*

*Affected by
19 & 20 Vict.
c. 96, sec. 3.*

XLIX. The Magistrate before whom or the Clerk of Court in which any such conviction has taken place, and the Clerk of Court in which any such Decree of Declarator has been pronounced establishing any marriage as aforesaid, shall, upon such conviction so taking place or upon such Decree being so pronounced, give information to the Registrar of the parish in which such conviction took place, and in case of a Decree of Declarator, to the Registrar of the parish of the domicile, or of the parish of the usual residence of the parties to the action of declarator, by notice of the import of such conviction or Decree, in the form of Schedule (K) to this Act annexed; and any such Clerk of Court failing so to do shall be liable in a penalty not exceeding forty shillings, which may be prosecuted for and recovered at the instance of the Registrar.

*Registrars
to make
out ac-
count of
number of
Births,
Deaths,
and Mar-
riages half-
yearly,
and assess-
ment to be
levied and
payment
made in
respect
thereof.*

*Partially re-
pealed by 23
& 24 Vict. c.
85, sec. 16,
and also
affected by
secs. 8, 17,
and 18.*

L. Every Registrar shall make out an account twice in every year of the number of Births, Deaths, and Marriages which he shall have registered in the half years terminating on the last day of *June* and the last day of *December* next preceding, . . . and it shall be lawful for the Parochial Board of the parish, on production of such account . . . to levy by assessment the sums required for payment to the Registrar of the amount of his account . . . and such further sum as may be necessary for his remuneration . . . and such assessment shall be made and levied in the same manner as and along with but separate from the assessment for the support of the poor; and if there shall be no assessment for the support of the poor in any parish, then such assessment shall be made and levied by the heritors, either in the same manner as and along with but separate from the rate for the support of prisons, or in such other manner as the Sheriff may direct; and the Parochial Board or the Heritors shall pay to the Registrar such sums as he shall be entitled to receive in terms of such verified account, according to the following scale: that is to say, for the first twenty entries of births, deaths, and marriages in each half-year which he shall have registered, whether the same be of births or of deaths or of marriages indiscriminately, two shillings each, and one shilling for each subsequent entry of births and of deaths and of marriages in each half-year; and in the event of such fees being deemed inadequate to his remuneration, such further sum as the Parochial Board shall think fit.

LI. Provided, that it shall be lawful for the Parochial Board, with the approbation of the Registrar-General or of the Sheriff, to place the Registrar and Assistant Registrar upon annual salaries, the amount of which shall be fixed by the Parochial Board, with the like approbation; and such salaries shall be paid by the Parochial Board out of the assessment to be levied as herein-before directed, and the fees received by the Registrar, which in such case shall be accounted for by him to the Parochial Board.

Registrar and Assistant may be paid by salary.

23 & 24 Vict. c. 85, sec. 16.

LII. The Registrar shall furnish gratis to all persons hereby required to give information, who shall apply therefor, printed forms, setting forth the heads of the particulars required to be specified and inserted in such forms; and the Registrar-General shall cause a printed copy of section forty-six of this Act, and copies also of the Schedule (C) hereunto annexed, to be supplied to the several Registrars, who shall, upon application therefor, furnish such copies to any minister at any time applying for the same, . . . and to the Registering Officers of the several Societies of Friends, and to the Secretaries of the Jewish Synagogues, for use in the Registration of Marriages under this Act.

Forms to be supplied gratis.

Partially repealed by 23 & 24 Vict. c. 85, sec. 15.

LIII. All the Registers hereby appointed to be kept shall be kept in duplicate, and such duplicates shall be paged continuously alike, . . . and the contents of each page of such duplicate Register Books shall be the same, and each page shall be signed by the Registrar; . . . and one of such duplicates shall be retained by the Registrar, and the other shall be transmitted by the [District Examiner] to the Registrar-General . . . each year; and the [Examiner] when transmitting such duplicate shall report any circumstance relating to the Registers to which he may think the attention of the Registrar-General ought to be called.

Registers to be kept in duplicate, and annually examined, and duplicate to be transmitted to the Registrar-General.

Partially repealed by 18 Vict. c. 29, sec. 3.

LIV. . . . [Partially repealed by 18 Vict. c. 29, sec. 3, and entirely repealed by 23 & 24 Vict. c. 85, sec. 1.]

LV. If any duplicate Register in the custody of the Registrar shall be lost, destroyed, or mutilated, or shall have become illegible, in whole or in part, such fact shall be forthwith communicated by the Registrar to the Registrar-General, who shall require the Registrar immediately to transmit to him the duplicate Register which shall have been mutilated or become illegible; and the Registrar-General shall thereupon present a petition to one of the Divisions of the Court of Session, setting forth the fact of the loss, destruction, mutilation, or total or partial illegibility, as the case may be, of such duplicate Register, and the date of the discovery of such loss, destruction, mutilation, or total or partial illegibility of such duplicate; and the Court, on being satisfied regarding the same, and after such intimation

Duplicate Register to be made to supply the place of any lost or mutilated Register on order of Court of Session.

as they may think proper, shall order such Register to be corrected or completed, or a new duplicate to be made, at the sight of the Registrar-General, and such corrected or completed duplicate, or new duplicate, authenticated by the signature of the Registrar-General, shall thereupon become in all respects of the same force and validity as the original duplicate.

Indexes of
parish
Registers
to be made,
which
may be
searched.
Fees, &c.

LVI. Every Registrar shall forthwith make tabular alphabetical indexes of the duplicate Registers in his custody, to be kept in the Registrar's Office ; and every person shall be entitled at all reasonable hours to search the said indexes, subject to such regulations as the Sheriff may prescribe, and to have an extract of any entry or entries in such Registers under the hands of the Registrar, on payment of the fees herein-after mentioned (that is to say), for every general search the sum of two shillings, and for every search for a particular Register of birth, death, or marriage, the sum of one shilling, and for every extract of any entry the sum of two shillings ; and any Registrar who shall refuse or neglect to make such extract for one month after being required so to do shall be liable in a penalty not exceeding ten pounds.

Indexes to
be kept at
General
Registry
Office,
where they
may be
searched.
Fees, &c.

LVII. Every person shall be entitled, on payment of the fees herein-after mentioned, to search the tabular alphabetical indexes of the Duplicate Registers in the custody of the Registrar-General, between the hours of ten in the morning and four in the afternoon of every day except *Sunday*, and to have an extract of any entry in the said Duplicate Registers ; and for every general search of such indexes the sum of twenty shillings, and for every particular search the sum of one shilling, and for every extract of any entry the sum of two shillings, and no more shall be paid to the Registrar-General, or such other officer as shall be appointed to receive such fees on his account : Provided, that it shall be competent to the Registrar-General to permit gratis searches to be made by or on behalf of and extracts to be given gratis to persons of whose inability to pay he shall be satisfied.

Extracts
of entries
to be ad-
missible as
evidence.

LVIII. Every extract of any entry in the Register Books to be kept under the provisions of this Act, duly authenticated and signed by the Registrar-General, if such extract shall be from the Registers kept at the General Registry Office, and by the Registrar if from any Parochial or District Register, shall be admissible as evidence in all parts of Her Majesty's dominions, without any other or further proof of such entry.

Fees re-
ceived by
Registrar-
General
to be ac-

LIX. Every sum received by the Registrar-General under the provisions of this Act shall be accounted for, and paid by the Registrar-General, at such times as the said Commissioners of Her Majesty's

Treasury from time to time shall direct, into the Bank of *England*, to the credit of Her Majesty's Exchequer, . . . or be applied by order of the said Commissioners towards the payment of the expenses of the said General Registry Office.

counted for. —
In part repealed, 38 & 39 Vict. c. 66 (S.L.R.).

LX. Every person who shall knowingly and wilfully make or cause to be made, for the purpose of being inserted in any Register of Birth, Death, or Marriage, any false or fictitious entry, or any false statement regarding the name of any person mentioned in the Register, or touching all or any of the particulars by this Act required to be registered, shall be deemed guilty of an offence, and on conviction shall be punishable by transportation for a period not exceeding seven years. . . .

Penalty on giving false information. —
Partly repealed, 61 & 62 Vict. c. 22 (S.L.R.).

LXI. Every Registrar who shall refuse, or, without reasonable cause, omit to register any birth or death or marriage, or to make any addition to or alteration upon the Register, in accordance with the provisions of this Act, shall forfeit a sum not exceeding ten pounds for every such offence.

Penalty on Registrar for omitting to register.

LXII. Every person who shall wilfully destroy, obliterate, erase, or injure any entry, or cause to be destroyed, obliterated, erased, or injured any such Register, or Duplicate thereof, or any Minute, Notice, or Certificate made or given pursuant to this Act, or shall falsely make or counterfeit, or cause to be falsely made or counterfeited, any part of any such Register or Duplicate, or any such Minute, Notice, or Certificate, or shall wilfully insert or make or cause to be inserted or made in any such Register or Duplicate any false or fictitious entry of or any false statement touching any birth, death, or marriage, or shall wilfully give any false certificate, or falsify any certificate, or shall certify any writing to be an extract of any such Register, knowing the same to be false or fictitious in any part thereof, shall be deemed guilty of an offence, and on conviction thereof be liable to be punished by transportation for a period not exceeding seven years. . . .

Penalty for destroying or falsifying Register, &c. —
61 & 62 Vict. c. 22 (S.L.R.).

LXIII. If any error shall be discovered to have been committed in the entry of any birth, death, or marriage in any such Register, the person discovering the same shall forthwith give information thereof to the Sheriff, and it shall be lawful for the Sheriff, and he is hereby authorised and required, thereupon, or upon otherwise coming to the knowledge of such erroneous entry, to summon before him the person who made, and any person concerned in the making such erroneous entry, or having knowledge regarding the same, and also any person interested in the effect of such erroneous entry, and to examine all such persons upon oath; and if the Sheriff shall be satisfied that any error has been committed in any such entry, he shall, by authority in

For correcting erroneous entries. —
Affected by 18 Vict. c. 29, sec. 6.; also by 23 & 24 Vict. c. 85, sec. 13.

writing under his own hand, direct a corrected entry of the birth, death, or marriage in relation to which such error has been committed, and bearing the date of the correction, to be made in a separate Register Book, to be called "The Register of Corrected Entries," and in such corrected entry reference shall be made to the depositions upon which the correction of the error has proceeded, and the Sheriff shall also make or cause to be made an entry or marking upon the margin of the original entry of such birth, death, or marriage in the Duplicate Registers, but shall not alter the original entry, distinctly referring by volume and page and date to the entry made in "The Register of Corrected Entries;" and in case the Duplicate Register shall have been transmitted to the Registrar-General, the Registrar shall transmit a copy of the corrected entry and relative marking, authenticated by his signature, to the Registrar-General, to be inserted in the Duplicate Register so transmitted; and the [District Examiner] shall every year transmit such "Register of Corrected Entries" to the Registrar-General, at the same time and in the same manner as is provided for the transmission of Duplicate Registers.

Errors in entry may be corrected before signing.

LXIV. Provided always, that errors committed in the form or substance of any entry may be corrected according to the truth of the case before the entry is signed; and if any correction is intended to be made by erasure or obliteration, the same shall be effected by drawing a line through the erroneous words or figures, but so as to leave the same legible; and any addition or alteration relative to such correction shall be made as near as may be to the correction, and the Registrar shall affix his signature * thereto.

Recovery and application of penalties.

Affected by 18 Vict. c. 29, sec. 7.

Partly repealed by 38 & 39 Vict. c. 66, and 55 & 56 Vict. c. 19 (S.L.R.).

LXV. All penalties imposed by this Act may, unless otherwise directed, be recovered by summary proceedings upon complaint in writing made by the Procurator-Fiscal to the Sheriff of the County within which such penalty shall be incurred, or to the Sheriff of any County in which the person complained against may be found . . . and either upon the appearance or on the default to appear of such person it shall be lawful for the Sheriff to proceed to the hearing of the complaint, and upon proof of the offence, either by the confession of the person complained against, or upon the oath of one or more credible witness or witnesses, and without any written pleadings or record of evidence, to convict the offender, and upon such conviction to decree, adjudge, and sentence him to pay the penalty incurred, and the expenses attending the conviction, and to grant warrant for imprisoning him until such penalty and expenses shall be paid.

* *Initials* are substituted for signature; "Regulations," p. 25.

LXVI. Where any parish shall be situated wholly or in part in a Town Councils of Burghs shall have and possess all the powers hereby conferred on Parochial Boards, and shall be liable to the discharge of all the duties hereby imposed on such Boards in respect of such parish or part of a parish; and such powers and duties shall be exercised and discharged by such Town Council as nearly as may be in terms of the provisions herein contained relative to such Parochial Boards; and such Town Council shall be entitled to levy such assessment on the real rent of lands and heritages within such Burgh as may be required to defray the expense of their proceedings under this Act; and the word "Burgh" shall have the meaning annexed to it in the seventy-sixth section of this Act, excepting in the case of Burghs which do not as Burghs send or contribute to send a member to Parliament, the boundaries of which shall continue to be as fixed by Royal Charter, or Act of Parliament, or other constitution thereof.

LXVII. The expense attending the postage or carriage of all letters and packets relating exclusively to the execution of this Act, sent by the General Post from place to place in *Great Britain* and *Ireland*, to or from the Registrar-General, and also the expense of registering any letter containing any Register transmitted through the Post Office, shall be defrayed as a part of the expense of the General Registry Office herein-before provided for: Provided always that such letters and packets as shall be sent to the Registrar-General be directed to the Registrar-General in *Edinburgh*, and all such letters and packets as shall be sent by the Registrar-General shall be in covers, with the words "Registrar-General, *Edinburgh*," printed on the same, and be signed on the outside thereof under such words with the name of such person as the Registrar-General, with the consent of the said Commissioners of Her Majesty's Treasury, shall appoint, in his own handwriting, such name to be from time to time sent to the Secretaries of the General Post Office in *London*, *Edinburgh*, and *Dublin*, and under such other regulations as the said Commissioners shall think fit;* and if the person so to be appointed shall subscribe or seal any letter or packet whatever, except such only concerning which he shall receive the special direction of his superior officer, or which he shall himself know to relate exclusively to the execution of this Act, or if the person so to be appointed, or any other person, shall knowingly send or cause to be sent, under

* Impersonal franking stamp superseded this arrangement, with authority, in August, 1898.

any such cover, any letter, paper, or writing, or any enclosure other than shall relate exclusively to the execution of this Act, every person so offending shall forfeit and pay the sum of one hundred pounds, and be dismissed from his office, one moiety of such penalty to be paid to the use of Her Majesty, Her heirs and successors, and the other moiety to the use of the person who shall inform or sue for the same, to be sued for or recovered in any competent Court.

Banns and Marriage Law unaffected.

LXVIII. Nothing herein contained shall affect the proclamation of Banns, or the Registration thereof, as at present in use, or the law of marriage in *Scotland*.

Registrar-General to furnish notices of Acts required to be done to Sheriffs for publication.

LXIX. The Registrar-General shall, within three months after his appointment to such office, and from time to time as he shall think fit, furnish to the respective Sheriffs of the several counties in *Scotland* such printed notices respecting the Acts required to be done under this Act by the persons who are herein required to give notice or information with regard to any birth, death, or marriage as he shall think it requisite to be publicly known, which notices the Sheriff shall, as soon as conveniently may be after the receipt thereof, cause to be affixed on the outside of the doors of all the known places of public worship or other public and conspicuous buildings or places within their respective counties.

Notices may be given by post.

LXX. Wherever notice is required to be given by this Act, the person bound to give the notice shall be held to have sufficiently discharged himself if he shall have put into the Post Office, before the expiration of the period within which the notice is required to be given, a letter addressed to the person to whom and containing the particulars of which the notice is required to be given.

No penalty if Notice given.

LXXI. No penalty imposed by this Act on parties failing to give any notice required by this Act shall be exigible, if any of the parties so required shall have given such notice.

Parties may sign by a mark before Registrar or two other witnesses.

LXXII. In case of the inability to write of any person whose signature is required or necessary under this Act, it shall be lawful for such person to adhibit a cross or other mark, and being adhibited in presence of the Registrar, or Sheriff, or two witnesses, who shall adhibit their designations to their signatures, such mark shall be in all respects as binding and effectual as the signature of such person if capable of writing would have been.

No penalty where failure to give notice not wilful.

LXXIII. No penalty shall be exacted in any case where it shall appear to the satisfaction of the Sheriff that the party failing to comply with the provisions of this Act, in relation to the giving notices under the same, has not wilfully been guilty of such failure, but that such failure has been occasioned by unavoidable accident, or

by circumstances over which he had no control, and where he has used every reasonable endeavour towards compliance with such provisions.

LXXIV. It shall be lawful for the Registrar-General, with the consent of Her Majesty in Council, to diminish, from time to time, the fees hereby authorised to be taken, and to alter the schedules to this Act annexed, regard being always had to the objects and purposes of this Act, and to rendering the same more effectual ; and such alteration of fees or schedules shall be published in the *Edinburgh Gazette*, and shall within fourteen days after the same shall have been issued be laid before both Houses of Parliament, or if Parliament shall not be then sitting, within fourteen days after the meeting of the then next session.

Registrar-General may alter Fees and Schedules.

LXXV. . . . [Repealed 55 & 56 Vict. c. 19 (S.L.R.)].

LXXVI. The following words and expressions in this Act shall have the several meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction ; (that is to say),

Interpretation of Act.

The expression "Registrar-General" shall mean the Registrar-General of Births, Deaths, and Marriages in *Scotland* for the time being, appointed and acting under this Act :

The word "Parish" shall include any division of a parish or union of parishes into a district or districts made in pursuance of this Act :

And with regard to any birth, death, or marriage herein mentioned, the words "Registrar" and "Assistant Registrar" shall mean the Registrar and Assistant Registrar of the parish or district in which such birth, death, or marriage took place or such marriage was solemnised, celebrated, or contracted ; and the word "Register" shall mean the Duplicate Registers of Births, Deaths, and Marriages to be kept and made pursuant to this Act :

The word "Sheriff" shall mean the Sheriff of the County of which he is Sheriff, and shall include Sheriff-Substitutes :

The words "Procurator-Fiscal" shall mean the Procurator-Fiscal of the county or division of a county of which he is Procurator-Fiscal :

The word "Minister" shall be taken to include ministers or pastors of Christian congregations of all denominations :

The word "County" shall include any division of a county established by law :

The word "Burgh" shall apply to a city, burgh, or town being a Royal Burgh, or which sends or contributes as a burgh to send

a Member to Parliament, and the boundaries of all such burghs shall for the purposes of this Act be the same as are described in the Act second and third *William* the Fourth, chapter sixty-five :

The word "Heritors" shall mean heritors entitled to elect a school-master under an Act passed in the forty-third year of the reign of His Majesty King *George* the Third, chapter fifty-four :

The word "Occupier" shall include the guardian, master, governor, keeper, steward, house-surgeon, or superintendent of every gaol, prison, or house of correction, workhouse, hospital, lunatic asylum, or public charitable institution.

LXXVII. This Act shall extend only to *Scotland*.

Act to
extend
only to
Scotland.

. NOTE.—*With the exception of Schedule (I), all the Schedules referred to in this Act have been altered by the Registrar-General in virtue of the powers conferred by Section LXXIV. The following are the amended Schedules, as in use from the 1st of January, 1861 :—*

SCHEDULES to which this Act refers.

SCHEDULE (A).

19 . Births in the *Parish* (or *District*) of _____ in the *County* (or *Burgh*) of *Edinburgh*.
 (1.) (2.) (3.) (4.) (5.) (6.)

No.	Name and Surname.	When and Where Born.	Sex.	Name, Surname, and Rank or Profession of Father. Name, and Maiden Surname of Mother. Date and Place of Marriage.	Signature and Qualification of Informant, and Residence, if out of the House in which the Birth occurred.	When and Where Registered, and Signature of Registrar.
98	<i>John</i>	1861.	M.	<i>James Walker, Wine Merchant.</i>	<i>James Walker,</i>	1861.
	<i>WALKER.</i>	<i>February</i>			<i>Father.</i>	<i>February 21st.</i>
		<i>Eleventh.</i>		<i>Jane Walker, M. S. Hill.</i>	<i>(Present.)</i>	<i>At Edinburgh.</i>
		<i>5h. 30m. a.m.</i>				
				1856, <i>June 12th, Edinburgh.</i>		<i>John Smith.</i>
		<i>1 North Street,</i>				Registrar.
		<i>Edinburgh.</i>				

[The Words and Figures in *Italics* in this Schedule to be filled in as the case may be.]

SCHEDULE (B).

19 . DEATHS in the *Parish* (or *District*) of _____ in the *County* (or *Burgh*) of *Edinburgh*.

(1.) (2.) (3.) (4.) (5.) (6.) (7.) (8.)

No.	Name and Surname. Rank or Profession, and whether Single, Married, or Widowed.	When and Where Died.	Sex.	Age.	Name, Surname, and Rank or Profession of Father. Name, and Maiden Surname of Mother.	Cause of Death, Duration of Disease, and Medical Attendant by whom certified.	Signature and Qualification of Informant, and Residence, if out of the House in which the Death occurred.	When and Where Registered, and Signature of Registrar.
301	<i>William</i>	1861.	<i>M.</i>	62	<i>Timothy Canty,</i>	<i>Pneumonia—</i>	<i>Honora Canty</i>	1861.
	<i>CANTY.</i>	<i>February</i>		<i>Years.</i>	<i>Shoemaker,</i>	<i>2 Months.</i>	<i>her X Mark,</i>	<i>March 2d.</i>
		<i>Twenty-eighth.</i>			<i>(deceased).</i>	<i>As cert. by</i>	<i>Widow.</i>	<i>At Edinburgh.</i>
	<i>Agricultural</i>	<i>6h. 30m. a.m.</i>				<i>H. Bloomfield,</i>	<i>(Present.)</i>	
	<i>Labourer.</i>				<i>Mary Canty,</i>	<i>M.D.</i>	<i>John Smith,</i>	<i>John Smith,</i>
		<i>16 Cottage Lane,</i>			<i>M. S. Nicolas,</i>		<i>Registrar,</i>	<i>Registrar.</i>
	<i>(Married to</i>	<i>Edinburgh.</i>			<i>(deceased).</i>		<i>Witness.</i>	
	<i>Honora M'Carty.)</i>							

[The Words and Figures in *Italics* in this Schedule to be filled in as the case may be.]

19 . MARRIAGES in the *Parish* (or *District*) of _____ in the *County* (or *Burgh*) of *Edinburgh*.

(1.) (2.) (3.) (4.) (5.) (6.) (7.)

No.	When, Where, and How Married.	Signatures of Parties. Rank or Profession, whether Single or Widowed, and Relationship (if any).	Age.	Usual Residence.	Name, Surname, and Rank or Profession of Father. Name, and Maiden Surname of Mother.	If a regular Marriage, Signatures of Officiating Minister and Witnesses. If irregular, Date of Conviction, Decree of Declarator, or Sheriff's Warrant.	When and Where Registered, and Signature of Registrar.
11	1861.	<i>William Hastings,</i>	32	<i>Chelmsford,</i>	<i>Peter Hastings,</i>	<i>James Brown,</i>	1861.
	<i>March Second.</i>	<i>House Carpenter,</i>		<i>Essex.</i>	<i>Upholsterer,</i>	<i>Minister of High</i>	<i>March 4th,</i>
		<i>(Jour.)</i>			<i>(deceased) and</i>	<i>Church, Edin-</i>	<i>burgh.</i>
	4 <i>Hamilton Place,</i>	<i>(Widower.)</i>			<i>Ann Hastings,</i>		
	<i>Edinburgh.</i>				<i>M. S. Payne.</i>		<i>John Smith,</i>
	<i>After Banns.</i>					<i>John Hastings,</i>	Registrar.
	<i>According to the</i>	<i>Sophia Mitchell,</i>	20	4 <i>Hamilton Place,</i>	<i>John Mitchell,</i>	<i>Witness,</i>	
	<i>Forms of the Es-</i>	<i>Dressmaker,</i>		<i>Edinburgh.</i>	<i>Butcher, and</i>	<i>Jane Mitchell,</i>	
	<i>tablished Church</i>				<i>Sarah Mitchell,</i>	<i>Witness.</i>	
	<i>of Scotland.</i>	<i>(Spinster.)</i>			<i>M. S. Evans,</i>		
					<i>(deceased.)</i>		

[The Words and Figures in *Italics* in this Schedule to be filled in as the case may be.]

SCHEDULE (D).

I, _____ Minister of _____ do hereby certify
 That on the _____ day of _____, 19____, I baptised by
 the name of _____, a _____ male child, produced to me
 by _____ as the child of _____
 and _____ and declared to have been born at _____
 in the _____ of _____ in the _____ of
 _____ on the _____ day of _____, 19____.
 Witness my hand, this _____ day of _____, 19____.
 _____ Minister.

SCHEDULE (E).

I, _____ do hereby certify, That the _____ male child
 named _____ was born at _____ in the _____
 of _____ in the _____ of _____ on the
 _____ day of _____, 19____; that _____ and
 _____ are the parents of the said child, and do not
 recognise the sacrament of baptism, and that the name
 _____ was given to the said child on the
 day of _____, 19____.
 Witness my hand, this _____ day of _____, 19____.
 [To be signed by parent or guardian of child.]

SCHEDULE (F).

To the Registrar of the Parish [or District] of _____
 in the County [or Burgh] of _____. Take notice, That the
 Court of Session [or other competent Court], upon the
 day of _____, 19____, pronounced decree in an action before
 the said Court at the instance of [pursuer's name and description].
 against [defender's name and description], relating to the paternity of
 a _____ male child, named _____, born at _____ in the
 _____ of _____ in the _____ of _____ on the
 _____ day of _____, 19____, finding that the said
 child was the illegitimate child of the said [names of pursuer and
 defender].

Witness my hand, this _____ day of _____, 19____.
 [To be signed by the Clerk of Court.]

SCHEDULE (G).

To the Registrar of the Parish [or Burgh] of
in the County [or District] of .

I do hereby certify, That I attended , who died
on the day of , 19 , at ,
that I last saw the deceased on the day of ,
19 , and that the cause of death and duration of disease were as
undernoted :—

	Cause of Death.	Duration of Disease.
Primary Disease.....(a)		
Secondary Disease (if any).....(b)		
(c)		
(d)		

Witness my hand, this day of , 19 .

Signature_____

Professional Title_____

Residence_____

SCHEDULE (H).

To the Registrar of the Parish [or District] of
in the County [or Burgh] of .

Take notice, That upon the day of , 19 ,
the body of of was buried in the
[here insert the name of the churchyard or other place of interment].

Witness my hand, this day of , 19 .

[To be signed by the person having charge of the place of interment.]

SCHEDULE (I).

I, _____ Registrar of Births, Deaths, and
 Marriages in the Parish [or District] of _____ in the
 County [or Burgh] of _____ do hereby certify, That
 the death of *A B* of _____ was duly registered by me
 on the _____ day of _____, 19 ____.
 Witness my hand, this _____ day of _____, 19 ____.

 Registrar.

SCHEDULE (K¹).

To the Registrar of the Parish [or District] of _____
 in the County [or Burgh] of _____].

Take notice, That after proof had been adduced in terms of the
 Act 19 & 20 Vict. cap. 96, sec. 3, *A B*, a Justice of Peace [or
 Magistrate] for the County [or Burgh] of _____ convicted
 within the Parish [or District] of _____, *C D*, of
 _____ of having irregularly contracted a marriage
 with *E F*, of _____, upon the _____ day of
 _____ 19 ____.

Witness my hand, this _____ day of _____, 19 ____.

[To be signed by the Clerk of Court.]

SCHEDULE (K²).

To the Registrar of the Parish [or District] of _____
 in the County [or Burgh] of _____.

Take notice, That the Court of Session [or other competent Court],
 upon the _____ day of _____, 19 ____, pronounced
 decree in an action of declarator of marriage before the said Court,
 at the instance of [*pursuer's name and description*], against [*defen-
 der's name and description*], finding that on the
 day of _____, 19 ____, the said _____ and
 _____ had intermarried.

Witness my hand, this _____ day of _____, 19 ____.

[To be signed by the Clerk of Court.]

B.

FIRST AMENDING ACT.

ANNO DECIMO OCTAVO
VICTORIÆ REGINÆ.

CAP. XXIX.

An Act to make further provision for the Registration of Births, Deaths, and Marriages in Scotland.—[15th June, 1855.]

WHEREAS it is expedient to amend the Act passed in the seventeenth and eighteenth years of the reign of Her present Majesty, intituled *An Act to provide for the better Registration of Births, Deaths, and Marriages in Scotland*: Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

I. It shall be lawful for the Sheriff if he shall think it expedient, upon a joint application of the Parochial Board of any parish and of the Town Council of any burgh situated within such parish, or upon the application of the Registrar-General, to unite such burgh or any portion thereof to any landward portion of such parish, and also to regulate any questions which may arise as to the assessment to be levied upon such burghs or portions of burghs, and upon such landward portions of such parishes respectively.

II. If any Parochial Board shall neglect or refuse to apply, under the authority of the fifteenth section of the recited Act, to the Sheriff for the removal of any incompetent Registrar, after being thereto required by the Registrar-General, it shall be lawful for the Registrar-General himself to apply to the Sheriff, and such and the like procedure in all respects shall in such case be had and take place as if the application had been made by the Parochial Board.

III. So much of the fifty-third and fifty-fourth sections of the recited Act as requires the examination of the Registers and the

17 & 18
Vict. c. 80.

Burghal
parts of
parishes
may be
united to
Landward

Repealed by
23 & 24
Vict. c. 85
sec. 1.

Failing
Parochial
Board,
Registrar-
General
may apply
for dismis-
sal of in-
competent
Registrar.

Examina-
tion of Re-
gisters by

Sheriff repealed, and examiners appointed.

17 & 18
Vict. c. 80,
sec. 5.

authentication thereof by the Sheriff shall be and the same is hereby repealed; and no penalty or breach of duty or other consequence shall be deemed to be incurred or to arise from the non-authentication heretofore of any of the said Registers or duplicate Registers which shall have been sanctioned or acquiesced in by the Registrar-General or the Sheriff, anything in the said Act to the contrary notwithstanding; and it shall be lawful for the Registrar-General, with the approbation of the Commissioners of the Treasury, from time to time to divide *Scotland* into such districts as he may think fit, and with such approbation to appoint for each district a fit and competent person to be the examiner thereof, who shall be paid such annual allowance as shall be fixed by the said Commissioners of the Treasury, in such and the like manner as the expenses specified in the fifth section of the said Act are directed to be paid; and it shall be the duty of such examiners, at such time or times as shall be fixed by the Registrar-General, to proceed to their respective districts, and there in such manner as shall be prescribed by the Registrar-General, carefully to examine and compare, along with the several Registrars within their respective districts, the Registers and duplicate Registers of such several Registrars, and authenticate and docquet the same, and all alterations and additions thereon or thereto, in such form and manner as the Registrar-General shall direct; and it shall be lawful for the Registrar-General, with the approbation of the Secretary of State for the Home Department, to frame all such rules and regulations as shall be necessary and expedient for such purposes in the manner, as far as may be, directed by the fifty-third section of the said Act or otherwise; and it shall in like manner be the duty of such examiners respectively to aid, under the direction of the Sheriff within their respective districts, in executing and carrying into effect the purposes of the eighteenth, nineteenth, twentieth, fifty-third, and fifty-fourth sections of the said Act.

Where Registration district consists of two parishes.

IV. Where a Registration district, consisting of portions of two or more parishes, has been erected by the Sheriff under the provisions of the said recited Act, the powers thereby and by this Act conferred on Parochial Boards, and the duties imposed upon such Boards, shall respectively belong to and be discharged by the qualified Heritors of such Registration district, and all meetings of such Heritors shall be called by the Registrar, or, in case of vacancy in the office of Registrar, by the Heritor of lands of the highest valuation therein; and at such meetings the Heritor of the highest valuation present shall preside, and shall be entitled to a casting as well as to a deliberate vote, and assessments under the said recited Act shall be

laid on according to the manner thereby prescribed for the case of parishes in which there is no assessment for the poor.

V. In every case in which the status of any person shall be altered by a decree of any competent Court, the Clerk to the Process shall forthwith report such decree to the Registrar-General; and it shall be lawful for the Registrar-General, and he is hereby required, to take all measures necessary for having the entries in the duplicate Registers affected by such decree rectified, by causing the date of the decree and the import thereof to be noted upon the margin of both duplicates opposite to such entries, as the Registrar-General shall think fit and direct.

Decrees of Court fixing Status of Parties to be noted in Register.

VI. In reference to the sixty-third section of the recited Act, the Register of Corrected Entries shall be kept in duplicate; and one of the duplicates shall be annually transmitted to the Registrar-General along with the duplicate Registers directed by the fifty-third section of the said Act to be annually so transmitted.

Register of Corrected Entries to be kept in duplicate.

VII. The penalties imposed by the said Act, and by the sixty-fifth section thereof directed to be recovered by prosecution by the Procurator-Fiscal . . . be paid to the Queen's and Lord Treasurer's Remembrancer of the Court of Exchequer in *Scotland*; and the expense of all such prosecutions, where not recovered from the parties, shall be charged and paid in Exchequer, and the recovery of such penalties shall be a part of the ordinary duties of the Procurator-Fiscal.

Penalties recovered to be paid into Exchequer, 55 & 56 Vict. c. 19 (S.L.R.).

VIII. It shall in all cases be lawful for the Sheriff-Clerks in the several counties, and they are hereby required to act in aid of the Sheriff in the execution of the powers, provisions, and duties of the recited Act and of this Act, in all respects as the Sheriffs may direct.

Sheriff-Clerks to act in Execution of Acts.

IX. The appointments of the examiners, and the other clerks and officers to be appointed under this Act, shall, in like manner as the appointments mentioned in the sixteenth section of the recited Act, be exempt from all stamp duties.

Appointments to be exempt from Stamp Duty.

X. This Act shall be deemed a part of the recited Act, and shall be construed therewith as if the said Acts formed one Act.

This Act and recited Act to be as one.

SECOND AMENDING ACT.

ANNO VICESIMO TERTIO ET VICESIMO QUARTO.

VICTORIÆ REGINÆ.

CAP. LXXXV.

An Act to amend two Acts of the seventeenth and eighteenth years, and of the eighteenth year, of Her present Majesty, relating to the Registration of Births, Deaths, and Marriages in Scotland.—[6th August, 1860.]

17 & 18
Vict. c. 80.
18 & 19
Vict. c. 29.

WHEREAS it is expedient to alter and amend the Act passed in the seventeenth and eighteenth years of the reign of Her present Majesty, intituled *An Act to provide for the better Registration of Births, Deaths, and Marriages in Scotland*, and the Act passed in the eighteenth year of the same reign, intituled *An Act to make further provision for the Registration of Births, Deaths, and Marriages in Scotland*: Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Certain sections of recited Acts repealed.

I. Sections eighteen, nineteen, forty-two, and fifty-four of the first-recited Act, and section one of the second-recited Act, are hereby repealed.

Register of Neglected Entries.

II. It shall be competent for any person, on payment of a fee of five shillings to register in a book to be kept for the purpose in the General Registry Office, to be called "The Register of Neglected Entries," any Birth, Death, or Marriage which shall have taken place in *Scotland* between the thirty-first day of *December* one thousand eight hundred and the first day of *January* one thousand eight hundred and fifty-five: Provided always, that in order to such Registration there shall be produced to the Registrar-General a Warrant to that effect by the Sheriff of the county in which such Birth, Death, or Marriage occurred, to be granted upon a petition, of which intimation, by advertisement or otherwise, shall be made as

such Sheriff may direct, and after due inquiry, and hearing any parties having interest who may appear to oppose such petition, and which warrant, and all written documents produced to such Sheriff, together with his notes, which such Sheriff is hereby required to take, of all parole evidence adduced before him, shall be transmitted to the Registrar-General, and shall be retained among the records of his office: Provided also, that a copy of the entry of any neglected Birth, Death, or Marriage which occurred subsequent to the year one thousand eight hundred and nineteen shall be made and transmitted from the General Registry Office to the Registrar of the parish or district in which such neglected Birth, Death, or Marriage occurred, and shall by him be recorded in such form and manner as the Registrar-General may direct.

III. If any error shall be discovered in an entry relative to a Birth, Death, or Marriage, in any Register kept and in use prior to the passing of the first-recited Act, which shall have taken place in Scotland after the thirty-first day of *December* one thousand eight hundred, it shall be lawful for the Sheriff of the County wherein the said Register is kept, upon the application of any person having interest, of which application such intimation shall be made as the Sheriff may direct, and upon production of such evidence, written or parole, as the Sheriff shall deem satisfactory, to authorise the Registrar-General (or the Registrar in whose custody such Register may be at the time) to correct the same in such form and manner as the Sheriff may direct: Provided that no part of the original entry shall be obliterated, and that the warrant of the Sheriff authorising the correction and all written documents produced to him, together with his notes, which such Sheriff is hereby required to take, of all parole evidence adduced before him, shall be transmitted to the Registrar-General, and shall be retained among the records of his office.

IV. . . . It shall be lawful for the Commissioners of Her Majesty's Treasury to pay to the Registrar-General such salary as that the amount thereof and of the salary received by him as Depute-Clerk Register shall not together exceed the sum of one thousand pounds *per annum*, and to pay to the Secretary to the Registrar-General such salary, not exceeding five hundred pounds *per annum*, as shall from time to time be fixed by the said Commissioners, and such salaries shall be paid out of any monies to be voted by Parliament for that purpose.

V. It shall be lawful for the Sheriff, if he shall think it expedient upon a joint application of the Parochial Board of any parish, and of the Town Council of any burgh situated within such parish, or upon

Correction of errors in Registers kept prior to 1st January, 1855.

Salaries of Registrar-General and Secretary.

42 & 43 Vic c. 44, sec. 5, altered Registrar-General's, and Secretary's was altered in 1890.

Landward and burghal parts of parishes may be united.

Sheriff determines questions as to assessment and election.

All existing Parochial Registers before 1820 to be transmitted to Registrar-General and after 1820 till 1855 to Parish Registrar until 1885, when the latter also transmitted to the Registrar-General.

the application of the Registrar-General, to unite such burgh or any portion thereof to any landward part of such parish, or to unite any landward part of such parish to such burgh or any portion thereof, and also to regulate and determine any questions which may arise as to the assessments to be levied for Registration purposes upon such burghs or portions of burghs, and upon such landward parts of such parishes respectively, and all questions as to the right to elect a Registrar for such united districts ; and it shall also be lawful for the Sheriff to regulate and determine all questions which may arise as to such assessment, or such right of election, in the case of all unions which shall already have been effected under the provisions of the first section of the second-recited Act herein-before repealed ; and the decision of the Sheriff in all such cases shall be final, and not subject to review in any Court or by any process whatsoever.

VI. All existing Parochial Registers of births or baptisms, deaths, or burials, and marriages or proclamations of banns, which shall have been kept in every parish prior to the first day of *January* one thousand eight hundred and fifty-five, shall, as far as regards such Registers made and entered prior to the year one thousand eight hundred and twenty, be transmitted, under the direction of the Sheriff, to the Registrar-General for preservation in the General Registry Office at *Edinburgh*, and, as far as regards such Registers from the year one thousand eight hundred and twenty inclusive to the said first day of *January* one thousand eight hundred and fifty-five, shall be delivered over to the custody and care of the person who shall have been appointed Registrar of the parish under the first-recited Act ; and where any parish shall be divided, such last-mentioned Registers shall remain in the custody of the Registrar of that portion of the divided parish wherein such Registers are at the time of the division ; and the Registrar to whom such Registers shall be so delivered shall, if required by the Registrar-General, make or cause to be made exact inventories and indexes thereof in so far as such inventories and indexes do not already exist, noticing in such inventories any blanks or deficiencies therein or other matter requiring to be noticed ; and an authenticated copy of each such inventory, and a general abstract of each such index, shall be transmitted by him to the Registrar-General, for preservation in the General Registry Office : and the Registers from the year one thousand eight hundred and twenty to the said first day of *January* one thousand eight hundred and fifty-five, hereby appointed to remain with the Registrar of the parish, shall, at the end of thirty years after the said first day of *January*, be transmitted under the direction of the Sheriff to the

Registrar-General for preservation as aforesaid ; and all such Registers, and the original inventories, indexes, and general abstracts, and the authenticated copies thereof, whether in the custody of the Registrar or Registrar-General, may be searched, and certified copies or extracts of entries taken therefrom, at all reasonable times by any person upon payment of the fees authorised to be taken for the like searches and copies made in or taken from the Registers and Indexes appointed to be kept under the first-recited Act : Provided always, that in all cases it shall be lawful for the Sheriff, if he shall think fit, upon a representation to that effect, to direct that the original Burial Registers shall remain in the custody of the Kirk-Session to whom they belong, copies of the same being furnished to the Registrar-General.

Extracts therefrom may be obtained upon payment of Fees.

VII. If any of the Parochial Registers referred to shall be found to contain entries relating to sessional or other matters, as well as entries relating to births or baptisms, deaths or burials, and marriages or proclamations of banns, such entries shall be separated from the rest of the Register, under the direction of the Registrar-General, for the purpose of being bound and delivered over to the Kirk-Session of the parish to which the Register pertains ; and where it shall be impossible to effect such separation in consequence of the sessional or other matter being intermixed with the entries relating to births or baptisms, deaths or burials, and marriages or proclamations of banns, the whole of the Register shall remain with the Registrar-General, or the Registrar of the parish, as the case may be : Provided, that it shall be lawful to the Kirk-Session or any one acting under its authority to have access to and to make copies of such sessional or other matter without payment of fees : Provided also, that where the portion falling to be delivered to the Kirk-Session shall happen to contain any entries from which the occurrence of a birth or baptism, death or burial, or marriage or proclamation of banns may be proved, it shall be lawful for the Registrar-General to cause copies of such entries to be made for the purpose of this and the first-recited Act, and the cost of making such copies shall be defrayed in the manner prescribed by the fifth section of the said first-recited Act.

Sessional record to be restored to the Kirk-Session of the parish

VIII. With reference to the twenty-second section of the first-recited Act, it shall be lawful for the Sheriff, on the receipt of a written application to that effect from the Registrar-General, to direct that a fire-proof safe or other place of deposit shall be provided in any parish, district, or burgh, for the due custody of the Registers and other documents connected with Registration, by the Parochial Board, Heritors, or Town Council of the parish, district, or burgh to which such Registers pertain ; and the cost of such safe or other place of

Provision as to fire-proof safes and offices.

17 & 18
 Vict. c. 80,
 sec. 50.

deposit shall be included under the assessment authorised to be levied by the fiftieth section of the first-recited Act; and further, it shall be lawful for the Parochial Board, Heritors, or Town Council of any parish, district or burgh, where they shall consider it expedient, to include under the aforesaid assessment such sums as may be required for the provision and maintenance of a suitable office for the use of the Registrar; provided that such office shall be situated within such parish, district, or burgh.

Intimation
 of elections
 of Regis-
 trars.

IX. . . . All elections of Registrars shall be intimated to the Sheriff as well as to the Registrar-General, in the manner prescribed by the twelfth section of the first-recited Act, and due intimation shall be made by the Sheriff of all newly appointed Registrars in such form as he may consider expedient.

Register of
 births,
 deaths,
 and mar-
 riages of
 Scottish
 subjects
 occurring
 in Foreign
 countries.

X. The birth of any child of *Scottish* parents, or the death or marriage of any *Scottish* subject, which shall have taken place in any foreign country since the passing of the first-recited Act, if intimated to the Registrar-General within twelve months after the passing of this Act, and the birth of any child of *Scottish* parents, or the death or marriage of any *Scottish* subject, which shall take place in any foreign country, if intimated to the Registrar-General within twelve months after the date thereof, in accordance, as near as may be, with the forms prescribed in Schedule (A), (B), and (C) respectively to the first-recited Act annexed, and duly certified by the British Consul of the country or district within which such birth, death, or marriage shall have taken place, shall be entered in a book to be kept for the purpose in the General Registry Office, to be called "The Foreign Register;" and all such intimations shall be filed, and the relative entries verified by the signature of the Registrar-General.

Provision
 in sec. 31
 of 17 & 18
 Vict. c. 80,
 as to the
 signature
 of the
 Register
 by the
 Sheriff
 repealed.

XI. So much of the thirty-first section of the first-recited Act as requires the signature of the Sheriff in the Register of Births, in the cases therein referred to, is hereby repealed; and in lieu thereof the signature of the district examiner, appointed under the provisions of the third section of the second-recited Act, shall be sufficient: Provided always, that in all such cases, before the examiner adhibits his signature to the Register, the Registrar shall produce the written authority of the Sheriff for making the registration, which shall be transmitted along with the duplicate Registers to the Registrar-General: Provided also, that the entry of any birth, which shall have been registered upwards of three months after its occurrence, if signed by such examiner, shall be admissible in evidence to prove such birth, anything in the said section to the contrary notwithstanding.

Mode of
 reckoning
 the period

XII. . . . Unless a Certificate, in the form of Schedules (D) or

(E) to the said Act annexed, is presented to the Registrar within six months after the registration of the birth to which such certificate relates, it shall not be lawful for the Registrar to record the baptismal or other name, without the written authority of the Sheriff endorsed upon such certificate.

of "six months" in secs. 32 and 33, Schedules (D) and (E).

XIII. The additions and alterations directed and authorised by the recited Acts to be made in the duplicate Registers, instead of being given effect to in the manner therein prescribed, shall be inserted in the Register of Corrected Entries, referred to in the sixty-third section of the first-recited Act, in such form and manner as the Registrar-General may direct.

Alterations to be inserted in the Register of Corrected Entries.

XIV. The medical certificate referred to in the forty-first section of the first-recited Act shall be transmitted by the medical person to the Registrar within seven days after the death of the person to whom it relates, instead of within fourteen days thereafter: Provided that in case such certificate shall not be so transmitted, the Registrar shall transmit to such medical person a form of the certificate prescribed by the said Act, and by a written or printed requisition, under his hand, shall require such medical person forthwith to return to the Registrar such certificate duly filled up in terms of the said Act; and such certificate so filled up shall be so returned within three days after the receipt thereof by such medical person.

Medical attendant to transmit Schedule (G) to the Registrar within seven days.

XV. So much of the forty-sixth section of the first-recited Act as provides for a copy of Schedule (C) to the said Act annexed being given out along with the certificate of Proclamation of Banns, and so much of the fifty-second section of the said Act as requires the Registrars to furnish copies of the said Schedule to Session Clerks, are hereby repealed: Provided that in every case of regular marriage a copy of the said Schedule shall, upon production of the certificate of Proclamation of Banns, be procured by the parties contracting the marriage, previous to its solemnisation, from the Registrar of the parish or district within which such marriage is intended to be solemnised, who shall be bound, as far as possible, to fill up the said Schedule.

Provisions in secs. 46 and 52 of 17 & 18 Vict. c. 80, as to Schedule (C) repealed.

XVI. So much of the fiftieth section of the first-recited Act as requires the examination and verification by the Sheriff of the Registrar's half-yearly accounts of registrations is hereby repealed; and in lieu thereof it shall be lawful for the Parochial Board or Heritors by whom the relative assessment is levied, to take such proceedings as may be deemed expedient for the purpose of ascertaining the correctness of such accounts.

Alterations of sec. 50 as to Verification of Registrar's accounts.

XVII. It shall be lawful for the Registrar to include in his half-yearly accounts of registrations the expense attending the postage or

Provision as to payment of

Registrar's carriage of all letters or packets, and all other necessary disbursements relating exclusively to the execution of his office, and for all such expenses he shall be repaid out of the assessment authorised to be levied by the fiftieth section of the first-recited Act; and the necessary expense incurred in the correction of an error under the provisions of the sixty-third section of the first-recited Act, where such expenses are not paid by the party or parties through whose fault such error was committed: and where such error was not committed through the Registrar's own carelessness, shall be defrayed by the Parochial Board, and shall be included under the aforesaid assessment: Provided that it shall be lawful for the Parochial Board to recover such expenses from the party or parties through whose fault the said error was committed; Provided also, that where any search or extract shall be required by or on behalf of a pauper, the Registrar shall be entitled to include the cost thereof in the account which he is required to render to the Parochial Board under the fiftieth section of the Act first before recited.

Registrar's postages, necessary disbursements, &c.

Extracts required by or on behalf of a pauper.

As to remuneration of Registrar under sec. 50, 17 & 18 Vict. c. 80.

XVIII. If any Registrar shall represent to the Registrar-General that his remuneration under the provisions of the fiftieth section of the first-recited Act is inadequate, the Registrar-General may require the Parochial Board to increase the sum payable to the Registrar to such amount as the Registrar-General considers necessary; and in the event of the Parochial Board delaying or refusing to pay such increased remuneration, it shall be lawful for the Registrar-General to make a summary application to the Sheriff, who shall, after hearing parties and making such inquiry as he thinks fit, determine both the expediency of any such increase, and the amount thereof; and all expenses incurred in and with respect to such application shall be paid by the Parochial Board, or the Registrar, as the Sheriff may determine; and the decision of the Sheriff in all such applications, both on the merits and as to expenses, shall be final and not subject to review in any Court or by any process whatsoever.

Clerical errors in Register may be corrected by the district examiners.

XIX. It shall be lawful for the district examiners, appointed under the provisions of the second-recited Act, to correct all such clerical errors as may be discovered at the periodical examination of the duplicate Registers, subject to such rules and regulations as may be made by the Registrar-General, with the approbation of one of Her Majesty's principal Secretaries of State.

Construction.

XX. The recited Acts, excepting in so far as altered by this Act, shall remain in full force and effect; and this Act shall be deemed a part of the recited Acts, and shall be read and construed therewith as if the three Acts formed one Act.

Partly repealed, 38 & 39 Vict. c. 66 (S.L.R.).

1855. Births in the *Parish* of _____ in the County (*or* *Burgh*) of *Edinburgh*. Registered by *John Smith*, Registrar.

SCHEDULE (A).

No.	Child.			Parents.		Informant.	When and where registered, and Signature of Registrar.
	Name (if given), and whether Informant present or not.	Sex.	When Born. Year, Day of Month, Hour.	Where Born. If in Lodgings, so stated.	Father. Name; Rank, Profession, or Occupation; Age; Birthplace.	Mother. Name; Maiden Name; Age; Birthplace.	
98	Baptismal Name (if different), or Name given without Baptism after Registration; and Date of insertion thereof.						
	WALKER,	Male.	1855.	1 North Street,	James Walker,	Jane Walker,	1855.
	JOHN,		February.	Edinburgh.	Wine Merchant,	Maiden Name	February 21st.
	(Present.)		Eleventh.		30 Years	Hill,	At Edinburgh.
			5h. 30m. a.m.		Glasgow.	her 4th Child.	
						29 Years.	John Smith,
						Stirling.	Registrar.

[The Words and Figures in *Italics* in this Schedule to be filled in as the Case may be.]

SCHEDULE (B). 1855 ONLY.

1855. Deaths in the *Parish of* in the County (*or Burgh*) of *Edinburgh*. Registered by *John Smith*, Registrar.

No.	Name, Rank, Profession, or Occupation.	Sex.	Age.	Description of the Deceased.				Particulars of Death.				Signature of Informant.	When and where registered, and Signature of Registrar.
				Where born, and How long in this District.	Parents' Names, and Rank, Profession, or Occupation.	If Deceased was married,		When died.	Where died.	Cause of Death, and how long Disease continued. Medical Attendant certified, and when he last saw Deceased.	Burial Place, Undertaker by whom certified.		
						To whom.	Issue, in order of Birth, their Names and Ages.						
301	CANTY,	M	62	County of Cork,	Timothy Canty,	Honora	1. Timothy, 31.	1855.	At 16, Cottage Lane,	Pneumonia—	Burial Ground	Honora Canty,	1855.
	WILLIAM,			Ireland.	Shoemaker,	M'Carty.	2. William, 30.	February	Edinburgh.	2 Months.	of Greyfriars,	her X Mark,	March 3rd.
	Labourer.			36 Years in Edinburgh.	deceased.		3. Mary, 29.	Twenty-eight,		As certified by H.	Edinburgh.	Widow,	At Edinburgh.
					Mary Canty.		4. John, dec.			Bloomfield, M.D.,	As certified by	Informant.	burgh.
					Maiden Name		act. 27, in	6h. 30m.		who saw deceased	George Watkins,	James Johnston, Shoemaker, Edinburgh,	John
					Nicolas, deceased.		1854.	a.m.		Feb. 27th.	taker.	Witness.	Registrar.
							5. Catherine, dec. act. 1, in					George Henderson,	
							1828.					Clerk in the Register	
							6. Stephen, 21.					Officer, Edinburgh,	
												Witness.	

[The Words and Figures in *Italics* in this Schedule to be filled in as the Case may be.]

No.	When, where, and how	Signatures of the Parties.	Residence.		Age.	Rank or Profession, and Relationship of Parties, and (if related).	Condition.			Birthplace, and when and where registered.	Parents' Names.		If a Regular Marriage, Signatures of Officiating Minister and Witnesses.	If irregular, Date of Extract, Sentence of Conviction, or Decree of Declarator, and in what Court pronounced.	When and where registered, and Signature of Registrar.
			Present.	Usual.			If a Widower or Second or Third Marriage.	Children by each former Marriage.	Living.		Dead.	Rank, Profession, or Occupation.			
11	On March Third, 1855.	William Hastings.	6 High Street, Edinburgh.	Chelmsford,* Essex.	32	Carpenter.	Widower.	2	1	Born and registered on 1 May 1822, at Bristol.	Peter Hastings, deceased, and Ann Hastings, mistress.	James Brown, Minister of High Church, Edinburgh.			1855.
	At Edinburgh: Marriage (after Banns) was solemnized between us according to the Rites and Ceremonies of the Established Church of Scotland.	Sophia Ann Mitchell.	4 Hamilton Place, Edinburgh.	4 Hamilton Place, Edinburgh.	20	Dressmaker.	Spinster.			Born and registered at Perth.	Payne. John Mitchell and Sarah Mitchell, Maiden Name Evans, deceased.	Edinburgh			John Smith, Registrar.
												John Hastings, Witness.			

[The Words and Figures in *Italics* in this Schedule to be filled in as the Case may be.]

ALTERED SCHEDULES which were in use from 1856 to 1860, both inclusive, superseded in 1861.

SCHEDULE (A).—BIRTH REGISTER.

18 . Births in the *Parish* (or *District*) of _____ in the *County* (or *Burgh*) of *Edinburgh*.
(1.) (2.) (3.) (4.) (5.) (6.) (7.)

No.	Surname, and Name (if given).	When and Where Born, with Hour of Birth.	Sex.	Name, Surname, and Rank or Profession of Father.	Name, and Maiden Surname of Mother.	Signature, Qualification, and Residence of Informant, if out of the House in which the Birth occurred.	When and where Registered, and Signa- ture of Registrar.
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SCHEDULE (B).—DEATH REGISTER.

18 . Deaths in the *Parish* (or *District*) of _____ in the *County* (or *Burgh*) of *Edinburgh*.
(1.) (2.) (3.) (4.) (5.) (6.) (7.) (8.) (9.)

No.	Surname, and Name Rank or Profession and Condition (whether Married or Single, Widower or Widow).	When and Where Died, with Hour of Death.	Age.	Parents' Names, and Rank, Profession, or Occupation.	Cause of Death and how long Disease continued.—Medical Attendant by whom certified, and when he last saw deceased.	Burial Place. Undertaker, or other Person, by whom certified.	Signature, Qualification, and Residence of Informant, if out of the House in which the Death occurred.	When and where Registered, and Signature of Registrar.
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SCHEDULE (C).—MARRIAGE REGISTER.

18 . Marriages in the *Parish* (or *District*) of _____ in the *County* (or *Burgh*) of *Edinburgh*.
(1.) (2.) (3.) (4.) (5.) (6.) (7.) (8.)

No.	When, Where, and how Married.	Signatures of Parties.	Age.	Residence.	Rank or Profession, and Condition (whether Bachelor or Widower, Spinster or Widow). Relationship of Parties (if any).	Name, Surname, and Rank or Profession of Father. Name, and Maiden Surname of Mother.	If a Regular Marriage, Signatures of Officiating Minister and Witnesses.	If Irregular, Date of Extract Sentence of Conviction, or Decree of Declarator, and in what Court pronounced.
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The above Marriage was registered by me at *Edinburgh*, on the _____ day of _____ 18 ____

Registrar.

D.

Note.—By Section 7 of the following Statute, The Lord Clerk Register (Scotland) Act, 1879, the Deputy Clerk Register holds the appointment also of Registrar-General.

42 & 43 VICTORIA.

CHAPTER 44.

An Act to make provision in regard to the office of Lord Clerk Register of Scotland, and for other purposes.—A.D. 1879.
[11th August, 1879.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

1. Section twenty-six of the Land Registers (Scotland) Act, 1868, is hereby repealed ; and from and after the passing of this Act no salary or emoluments shall be attached to the office of Lord Clerk Register of Scotland. Repeal of sec. 26 of 31 & 32 Vict. c. 64.

2. The Lord Clerk Register shall continue to be one of the Officers of State of Scotland, and shall have the same status and precedence as heretofore ; but, save as herein provided, no rights, authorities, privileges, or duties shall be attached to the office of Lord Clerk Register. Status, &c. of Lord Clerk Register.

3. The Lord Clerk Register shall as heretofore be keeper of the Signet, and shall continue to have all the rights, authorities, privileges, and duties belonging to the office of such keeper, including the right of appointing a deputy keeper and the officers in the Signet Office. Lord Clerk Register to be Keeper of the Signet.

4. The Lord Clerk Register shall continue to have all the rights, authorities, privileges, and duties heretofore belonging to or exercised by the Lord Clerk Register at or in connexion with the election of representative peers of Scotland : Provided that in the event of a vacancy in the office of Lord Clerk Register, or in his absence from any cause, the Deputy Clerk Register shall have and may exercise Lord Clerk Register's duties at election of representative Peers.

A.D. 1879.

the said rights, authorities, privileges, and duties, any statute or custom to the contrary notwithstanding.

Appoint-
ment and
salary of
Deputy
Clerk
Register.

5. Upon the death or resignation of William Pitt Dundas, Esquire, it shall be lawful for Her Majesty, her heirs and successors, to appoint a Deputy Clerk Register of Scotland, who shall be an advocate of the Scottish Bar of not less than ten years' standing, and who shall have a salary of one thousand two hundred pounds by the year, payable out of moneys voted by Parliament.

Duties of
Deputy
Clerk
Register.

6. The Deputy Clerk Register shall have, save as otherwise provided, the whole rights, authorities, privileges, and duties in regard to the public registers, records, and rolls of Scotland, and the keepers and other officers thereof, heretofore vested in the Lord Clerk Register, and shall exercise and discharge the same personally, giving regular attendance during the usual business hours for that purpose in Her Majesty's General Register House in Edinburgh.

Any reports, acts, or things required to be made or done to or in relation to the Lord Clerk Register by or under any Act of Parliament, law, or custom, shall, save in so far as otherwise provided by this Act, be made or done to or in relation to the Deputy Clerk Register.

Deputy
Clerk
Register
to hold
office of
Registrar-
General of
Births, &c.

7. The Deputy Clerk Register shall, without special appointment or additional salary, hold the office, with all the powers and duties thereto belonging, of Registrar-General of Births, Deaths, and Marriages in Scotland.

Treasury
to appoint
to offices
in Register
of Sasines,
&c.

8. The right of making or nominating to or approving of appointments to any offices now vested in the Lord Clerk Register, or Registrar-General of Scotland, or Director of Chancery, and of appointing and removing deputies, assistants, clerks, and such other officers as may be necessary in the General Register of Sasines and the General Register of Hornings, Inhibitions, and Adjudications shall hereafter be vested in the Commissioners of Her Majesty's Treasury.

Provided that from and after the passing of this Act the Keeper of the General Register of Sasines and the General Register of Hornings, Inhibitions, and Adjudications shall be relieved of all responsibility in respect of neglects, omissions, errors, or breaches of duty in the registration of writs in the said registers other than such as may in law attach to him in respect of neglects, omissions, errors, or breaches of duty in his own person or by his own default or direction.

The Commissioners of Her Majesty's Treasury shall have power to fix the salaries and emoluments attached to any of the offices aforesaid, and, with the consent of one of Her Majesty's Principal

Secretaries of State, to regulate any of the said offices, and to change the designations thereof and the duties of officers employed therein, and the terms on which appointments shall be made thereto. A.D. 1879.

9. All appointments hereafter made to any of the offices aforesaid shall entitle the holders thereof to superannuation upon such conditions as the Commissioners of Her Majesty's Treasury, having regard to the Superannuation Act, 1859, shall prescribe: provided, that it shall be lawful to the said Commissioners if, and so far as they see fit, to grant superannuations to the holders of such offices before the passing of this Act, although they may not have obtained certificates from the Civil Service Commissioners. Super-annuation of officers. 22 Vict. c. 26.

10. Wherever under the present law and practice an order may be made by any court or judge upon the Lord Clerk Register for the production or exhibition of any writ or document in public custody, such order may hereafter be made upon the Deputy Clerk Register. Orders for production or exhibition of writs in public custody.

11. All minutes and regulations made in pursuance of this Act shall be laid before Parliament within one month after they are made, if Parliament be then sitting, and if Parliament be not then sitting, within one month after the beginning of the then next session of Parliament. Minutes, &c., to be laid before Parliament.

12. In respect of his long service as Deputy Clerk Register, and his special service as the first holder of the office of Registrar-General of Scotland, in organising the system of registering births, deaths, and marriages in Scotland, it shall be lawful to the Commissioners of Her Majesty's Treasury to grant to William Pitt Dundas, Esquire, a retiring allowance not exceeding the salary now payable to him under the Act passed in the session of the twenty-third and twenty-fourth years of the reign of Her present Majesty, chapter eighty-five, in respect of the said conjoined offices of Deputy Clerk Register and Registrar-General of Scotland. Retiring allowance to W. P. Dundas, Esq.

13. This Act may be cited for all purposes as the Lord Clerk Register (Scotland) Act, 1879. Short title.

REGISTRATION OF BIRTHS AND DEATHS AT SEA.

—◆—
57 & 58 VICTORIA,
CHAPTER 60, SECTION 254.

Repealed Sections XXX. and XLIII. of the original Registration Act. But births and deaths on board H.M. Ships of the Navy are intimated directly to the respective Registrar-Generals, sec. 37, 37 & 38 Vict. c. 88.

Return of
births and
deaths in
British
ships.

Sec. 254.—(1.) The master of every British ship, whether registered or not in the United Kingdom, shall, as soon as may be after the occurrence of the birth of a child or the death of a person happening on board his ship, record in his log book or otherwise the fact of the birth or death, and the particulars required by the [*] Eighth Schedule to this Act to be registered concerning the birth or death, or such of them as may be known to him.

(2.) The master of every British ship, upon its arrival at any port in the United Kingdom, or at such other time and place as the Board of Trade may with respect to any ship or class of ships direct, shall deliver or transmit, in such form as the Board of Trade direct, a return of the facts recorded by him in respect to the birth of a child or the death of a person on board such ship, to the Registrar-General of Shipping and Seamen.

(3.) Where the said return is directed by the Board of Trade to be delivered or transmitted upon the arrival of the ship or the discharge of the crew or otherwise at any port out of the United Kingdom, the Board of Trade may, if they think fit, direct that the return, instead of being delivered or transmitted to the Registrar-General of Shipping and Seamen, shall be delivered and the same shall accordingly be delivered, if the port is in a British Possession, to the superintendent or chief officer of Customs at such port, and if it is elsewhere, to the British consular officer at the port, and such superintendent or officer

shall transmit the same as soon as may be to the Registrar-General of Shipping and Seamen.

(4.) The Registrar-General of Shipping and Seamen shall send a certified copy of the returns relating to such births and deaths as follows: that is to say,—

(a.) If it appears from the return that the father of the child so born, or if the child is a bastard the mother of the child, or that the person deceased was a Scotch or Irish subject of Her Majesty, then to the Registrar-General of Births and Deaths in Scotland or Ireland, as the case may require; and

(b.) In any other case to the Registrar-General of Births and Deaths in England;

and such Registrar-General of Births and Deaths shall cause the same to be filed and preserved in or copied in a book to be kept by him for the purpose, and to be called the Marine Register Book; and such book shall be a certified copy of the Register Book within the meaning of the Acts relating to the registration of births and deaths in England, Scotland, and Ireland respectively.

(5.) If the master of any ship fails to comply with any requirement of this section, he shall be liable for each offence to a fine not exceeding five pounds.

[*] THE EIGHTH SCHEDULE.

Particulars to be registered by Master of a Ship concerning a Birth at Sea.

Date of birth.

Name (if any) and sex of the child.

Name and surname, rank, profession, or occupation of the father.

Name and surname, and maiden surname of the mother.

Nationality and last place of abode of the father and mother.

Particulars to be registered by Master of a Ship concerning a Death at Sea.

Date of death.

Name and surname.

Sex.

Age.

Rank, profession, or occupation.

Nationality, and last place of abode.

Cause of death.

THE ACT RELATIVE TO VACCINATION IN SCOTLAND.

26 & 27 VICTORIA.

CHAPTER CVIII.

An Act to extend and make compulsory the Practice of Vaccination in Scotland.—[28th July, 1863.]

WHEREAS it is expedient to extend, and in certain cases to make compulsory, the practice of Vaccination in *Scotland*, and to make further provision for the Vaccination of the poor: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:—

I. Within two months after the passing of this Act the Parochial Board of every parish or combination of parishes in *Scotland* shall appoint a registered medical practitioner or practitioners to be the vaccinator or vaccinators within such parish or combination.

II. The remuneration to each such vaccinator shall depend on and be regulated by the number of persons not previously vaccinated who have been successfully vaccinated by such vaccinator; and the allowance for every person so vaccinated shall not be less than one shilling and sixpence when the vaccination is performed within two miles of the residence of the vaccinator by the nearest public road, and two shillings and sixpence when beyond that distance.

III. For the purposes of Registration under this Act, as herein-after provided, every Registration District, as the same exists at the time, or may from time to time be erected, under and in virtue of an Act passed in the seventeenth and eighteenth years of the reign of Her present Majesty, chapter eighty, intituled *An Act to provide for the better Registration of Births, Deaths, and Marriages in Scotland*, and of another Act passed in the eighteenth year of the reign of Her

Parochial
Boards to
appoint
Vaccina-
tion.

As to
remunera-
tion of
vaccina-
tors.

Registra-
tion Dis-
tricts.

present Majesty, chapter twenty-nine, intituled *An Act to make further Provision for the Registration of Births, Deaths, and Marriages in Scotland*, shall be a Vaccination District.

IV. The Parochial Board of every parish or combination shall from time to time give notice to the Board of Supervision, the Registrar-General, and the Registrar or Registrars for the district within which such parish or combination may be wholly or partially situated, of the names of each vaccinator appointed by them, and that within forty-eight hours of the appointment of such vaccinator.

Parochial Boards to give notice of names of vaccinators.

V. The Parochial Board of every parish or combination, and each vaccinator, and any other officers engaged in the administration of the laws for relief of the poor in any parish or combination, shall, in the exercise of the functions conferred upon them by this Act, conform to the regulations which may from time to time be issued by the Board of Supervision in relation thereto, which regulations the Board of Supervision is hereby authorised and required to make and issue.

Parochial Boards, &c., to conform to regulations made by Board of Supervision.

VI. The Parochial Board of every parish or combination shall defray the expenses incurred by them in the execution of this Act out of any rates or monies which may come into their hands for the relief of the poor, including any share that may be apportioned to any such parish or combination of the grant voted or that may be voted by Parliament towards the medical treatment of the poor, and shall include in the assessment to be levied for relief of the poor in such parish such sum as may be considered necessary by them for carrying into execution the purposes of this Act.

Parochial Boards to defray expense.

VII. Vaccination and any medical or surgical treatment incidental to it shall not be considered Parochial relief, alms, or charitable allowance, and shall not affect the parochial settlement of any person so vaccinated or treated.

Medical treatment not to be considered Parochial relief.

VIII. The father of every child born in *Scotland* after the first day of *January* in the year One thousand eight hundred and sixty-four, and in the event of the death, illness, or inability of the father, then the mother, or in the event of the death, illness, absence, or inability of the father and mother, then the person who shall have the care, nurture, or custody of such child, shall, within six months after the birth of such child, cause such child to be vaccinated by a medical practitioner, and upon and immediately after the successful vaccination of such child, the medical practitioner who shall have performed the operation shall deliver to the father or mother of such child, or to the person who shall have the care, nurture, or custody of such child, a certificate under his hand, according to the form of the

Parents or guardians to cause children to be vaccinated.

Schedule (A) hereto annexed, that such child has been successfully vaccinated; and such certificate shall, within three days after the date thereof, be transmitted to and lodged with the Registrar for the district by the father, mother, or person aforesaid, and such certificate, if registered, shall, without further proof, be admissible as evidence of the successful vaccination of such child in any information or complaint which shall be brought against the father, mother, or person aforesaid for non-compliance with the provisions of this Act.

If the child be not in a fit state for vaccination, the medical officer to deliver a certificate to that effect, to be in force for two months.

IX. If any medical practitioner shall be of opinion that any child is not in a fit and proper state to be successfully vaccinated, he shall thereupon and immediately deliver to the father or mother of such child, or the person having the care, nurture, or custody of such child, a certificate under his hand, according to the form of the Schedule (B) hereto annexed, that the child is in an unfit state for successful vaccination, and such certificate shall remain in force for two months from its delivery as aforesaid; and the father, mother, or person aforesaid shall, unless they shall within each succeeding period of two months have obtained from a medical practitioner a renewal of such certificate, within two months next after the delivery of the said certificate as aforesaid, and if the said child be not vaccinated at the termination of such period of two months, then during each succeeding period of two months until such child has been successfully vaccinated, cause such child to be examined by a medical practitioner, and if he deem such child to be then in a fit and proper state for vaccination, he shall forthwith vaccinate him accordingly, and if the operation be successful, shall deliver to the father or mother of such child, or person aforesaid, a certificate under his hand, according to the form of the said Schedule (A), that such child has been successfully vaccinated; but if the medical practitioner be of opinion that the child is still in an unfit state for successful vaccination, then he shall again deliver to the father or mother of such child, or person aforesaid, a certificate under his hand, according to the form of the said Schedule (B), that the child is still in an unfit state for successful vaccination; and the medical practitioner, so long as such child remains in an unfit state for vaccination and unvaccinated, shall at the expiration of every succeeding period of two months deliver, if required, to the father or mother of such child, or person aforesaid, a fresh certificate under his hand, according to the said form; and the production of such certificate shall be a sufficient defence against any complaint which shall be brought against the father or mother, or person aforesaid, for non-compliance with the provisions of this Act.

X. In the event of the medical practitioner being of opinion, after three successive vaccinations, that any child is insusceptible of the vaccine disease, he shall deliver to the father or mother, or person having the care, nurture, or custody of such child, a certificate under his hand, according to the form of the Schedule (C) hereto annexed, that the child is insusceptible of vaccine disease.

If child is insusceptible of vaccine disease, medical practitioner to certify the same.

XI. On the registration of the birth of any child the Registrar shall deliver to the person registering such birth a printed notice in the form or as nearly as may be the form of the Schedule (D) hereto annexed, and setting forth such other particulars in regard to the provisions of this Act as in the opinion of the Registrar-General may be necessary or expedient, and such notice shall have attached thereto in duplicate the several certificates (A), (B), and (C), prescribed by this Act.

Registrar of births, &c., to deliver a printed notice to person registering the birth of any child.

XII. In Insular, Highland, and other districts, or portions of such districts, where, from the difficulty of travelling and other causes, it may be considered inexpedient to enforce the provisions of this Act, as expressed in the eighth, ninth, tenth, and eleventh clauses hereof, it shall be competent to the Board of Supervision, upon application by the Parochial Board, from time to time to frame such modifications thereof as they may consider proper, and the same, when approved of by the Lord Advocate for the time being, shall be held to supersede the provisions in these clauses, so far as regards such districts; and the Board of Supervision may, if applied to by the Parochial Board, in such cases appoint a medical practitioner or practitioners to travel throughout such districts for the purpose of vaccinating under the provisions of this Act, and may fix such reasonable remuneration to be paid to the medical practitioners so appointed as they think proper, and may allocate among the parishes or combinations within such district such proportion of the expenses so fixed as the Board may think proper, and the expenses so allocated shall be defrayed by such parish or combination in the same way as the expenses incurred by Parochial Boards in the execution of this Act are herein directed to be paid: Provided that in no case shall the remuneration to such medical practitioner exceed a sum equal to three shillings and sixpence for each child vaccinated by him over and above an allowance for travelling expenses.

In Insular, Highland, and other districts certain provisions of this Act may be modified.

XIII. Upon the application of the Registrar-General there shall be furnished to him from time to time from Her Majesty's Stationery Office all such stationery, books, certificates, schedules, notices, and forms as shall be necessary in the execution of this Act; and the whole expenses to be incurred by the Registrar-General under the

Stationery, books &c., to be provided.

provisions of this Act shall be defrayed in the same manner as his expenses are provided to be defrayed under the said recited Act seventeenth and eighteenth *Victoria*, chapter eighty.

Registrar-General to frame forms and regulations.

XIV. The Registrar-General, in carrying out the provisions of this Act as regards Registration, is hereby empowered and directed to frame such forms and regulations as he may deem requisite for carrying this Act into full effect; and not later than the first day of *December*, One thousand eight hundred and sixty-three, he shall transmit the necessary books, certificates, schedules, notices, and forms to the Registrars of each district in *Scotland*, who shall deliver to the Vaccinator and other Medical Practitioners within such district such of the same as they may require for the performance of the duties imposed upon them by this Act.

Registrar of Births, &c., to keep Vaccination Registers.

XV. The Registrar of Births, Deaths, and Marriages in every district shall enter in the Duplicate Register of Births kept and retained by him, in the column in which the name of each child is written, the word "Vaccinated" under the name of every such child whose vaccination has been certified to him as herein provided, and the word "Insusceptible" under the name of every child who has been certified, as herein provided, to be insusceptible of the Vaccine Disease, and shall initial each such entry, and shall add thereto the date of the certificate of vaccination or insusceptibility, as the case may be; and he shall also keep a book in which he shall, in the form or as nearly as may be in the form of the Schedule (E) hereto annexed, from time to time enter the name of every child whose vaccination has been duly certified to him as necessarily postponed, and the date of the certificate, and the period for which the vaccination is postponed, and each entry in the Register of Postponed Vaccinations shall refer to the corresponding entry in the Register of Births of the birth of each such child; and such books shall be open for search at all reasonable times, and the Registrar shall be obliged to give a copy, certified under his hand, of each entry therein, on payment of a fee of one shilling for each search, and sixpence for each certificate.

Fee to be paid to Registrar for each person vaccinated.

XVI. A fee of threepence shall be paid to the Registrar for each person vaccinated in respect of whom he shall have performed the duties required in this Act, and the said fee shall be payable in the same manner as the fee now payable to such Registrar for registering births is paid; and the sums required for the execution of this Act in regard to registration shall be laid on along with and form part of the assessment authorised by the Acts in force for the Registration of Births, Deaths, and Marriages in *Scotland*.

XVII. In every case where there is not transmitted to the Registrar a certificate of the vaccination of any child born within his district, or of the postponement of such vaccination, or of the insusceptibility of such child to vaccine disease, all within the periods and in the manner respectively hereby prescribed, the Registrar of the district shall intimate such failure to the father or mother, or person having the care, nurture, or custody of such child, by a notice transmitted through the Post Office; and if a certificate, as herein provided, is not exhibited by such father or mother or other person to the Registrar within ten days from the despatch of such notice the father or mother, or person aforesaid, so failing shall forfeit a sum not exceeding twenty shillings, to be applied in the manner in which penalties are directed to be applied under this Act, and the further sum of one shilling to be paid to the Registrar in respect of such notice; and said last-mentioned sums may be recovered in the same way as penalties are herein directed to be recovered, and failing payment of either of said sums, such father, mother, or person aforesaid shall be liable to be imprisoned in any of Her Majesty's Prisons for a period not exceeding ten days.

Penalty on parent, &c., for not transmitting certificate of Vaccination, &c., to Registrar.

XVIII. The Registrar of each district shall once in every six months transmit to the Inspector of the Poor of the parish or combination in which such district is situate a list of the names and addresses of such persons as have failed to transmit or lodge a certificate of vaccination in terms of this Act; and on the receipt of such list the Inspector of the Poor shall lay the same before the Parochial Board of such parish or combination, and thereupon the Parochial Board shall issue an Order to the vaccinator appointed by them to vaccinate the persons named in such list;* and notice in writing of such Order shall be given to such persons, or, if children, to their father or mother, or the persons having care of them; and in pursuance of such Order the Vaccinator shall vaccinate the persons named therein,* or any of them, at any time not less than ten nor more than twenty days after the date of such notice, unless such persons shall previously have been vaccinated, and a certificate of their vaccination or insusceptibility shall have been transmitted to the Registrar; and if any such person or the parent or person having the care of any such child shall refuse to allow such operation to be performed, he shall for every such offence be liable to a penalty not exceeding twenty shillings, and, failing payment, to be imprisoned for any period not exceeding ten days.

Parochial Boards to issue orders for vaccination on receipt of list from Registrar.

* Meaning, generally, the children of the parents named in the List.

Return to
be made of
number of
children
vaccinated.

XIX. In the general abstract of births, deaths, and marriages registered during the year which by the said recited Act seventeenth and eighteenth *Victoria*, chapter eighty, the Registrar-General is required once in each year to transmit to Her Majesty's Principal Secretary of State for the Home Department, he shall from and after the passing of this Act include a return showing the number of children successfully vaccinated, the number of children whose vaccination has been postponed, and the number of children certified to be insusceptible of vaccine disease, and such other information as the said Secretary of State may from time to time require.

Registrars
to be sub-
ject to
control of
Registrar-
General.

XX. In all matters relating to the execution of this Act the respective Registrars shall be subject to the supervision and control of the Registrar-General and the inspectors under him, in the same way and manner as such Registrars are subject to supervision and control under the Acts in force relating to the registration of births, deaths, and marriages in *Scotland*; and the Registrar-General and inspectors are hereby empowered and required to exercise such supervision and control; and whenever it appears to them that the provisions of this Act are not being carried fully into effect by any Parochial Board or the officers appointed by them, the Registrar-General shall call the attention of the Board of Supervision thereto with a view to their providing the requisite remedy.

Vaccina-
tors to
keep a
book of
persons
vaccinated.

XXI. The medical practitioners appointed as vaccinators in each parish or combination shall keep a book in which they shall enter from time to time the number of persons successfully vaccinated by them, those cases in which vaccination has been postponed, and those which have been certified to be insusceptible; and they shall yearly, or at such other times as the Board of Supervision may direct, make a return to the Board embracing these and such other particulars as the Board of Supervision may require; and such books and returns shall at all times be open to inspection, free of charge, by the Registrar-General, Inspectors, or Registrars, and Officers of the Parochial Board of the parish or combination to which they relate.

No certifi-
cate to be
received
as evidence
unless
recorded.

XXII. No certificate granted under the provisions of this Act shall be received as evidence in any information or complaint which shall be brought against the father or mother, or other person having the care, nurture, or custody of the child named in said certificate, unless the same has been duly recorded by the Registrar of the district within which such child was born in manner herein-before provided.

Vaccinator
to transmit
to Regis-

XXIII. In every case where, under the provisions of this Act, the vaccinator is required to grant a certificate of vaccination, or of post-

ponement of vaccination, or of insusceptibility to vaccine disease, and grants the same, he shall be bound and he is hereby required to transmit to the Registrar of the district within which the child referred to in such certificate was born the particulars contained in such certificate, in the form, or as nearly as may be in the form, of the Schedule (F) hereto annexed, and that within forty-eight hours from the date of such certificate, under the penalty of twenty shillings for each omission.

XXIV. Any person who shall produce or attempt to produce in any person, by inoculation with variolous matter, or by wilful exposure to variolous matter, or to any matter, article or thing, impregnated with variolous matter, or wilfully by any other means whatever produce the disease of small-pox in *Scotland*, shall forfeit a sum of five pounds, which shall be recoverable and shall be applied in the same manner as penalties are directed to be recovered and applied under the provisions of this Act.

XXV. All penalties imposed by this Act may be recovered by summary proceeding, upon complaint in writing made by the Inspector of Poor of the parish or combination within which respectively the offence shall have been committed to the Sheriff of the county in which the offence shall have been committed, or to the Sheriff of the county in which the offender may be found; and on such complaint being made such Sheriff shall issue a warrant for bringing the party complained against before him, or shall issue an order requiring the party complained against to appear on a day and at a time and place to be named in such order; and such warrant or order may contain a warrant to cite witnesses for both parties; and such warrant or order shall be effectual in any part of *Scotland* on being endorsed by the Sheriff of any county in which it is to be executed, if other than the county wherein it has been granted, and which endorsement such Sheriff is hereby authorised to give, and such warrant shall be a sufficient authority to any messenger-at-arms or sheriff-officer to apprehend and detain the offender in custody till he can be brought before the Sheriff; and any such order shall be served by a messenger-at-arms or Sheriff's officer on the party offending, either in person or by leaving with some inmate at his usual place of abode a copy of such order and of the complaint whereupon the same has proceeded; and either upon the appearance or upon the default to appear of the party offending it shall be lawful for the Sheriff to proceed to the hearing of the complaint, and upon proof of the offence, either by the confession of the party complained against or other legal evidence, and without any written pleadings or record of evidence, to convict

transfers the particulars of certificate.

Penalty on persons inoculating so as to produce disease.

Recovery of penalties.

the offender, and upon such conviction to decern and adjudge the offender to pay the penalty incurred as well as such expenses as the Sheriff shall think fit, and to grant warrant for imprisoning the offender until such penalty and expenses shall be paid: Provided always, that such warrant shall specify the amount of such penalty and expenses, and shall also specify a period at the expiration of which the party shall be discharged, notwithstanding such penalty or expenses shall not have been paid, and shall in no case exceed two months: Provided also, that it shall be lawful for the Sheriff, if he shall see good cause so to do, to adjourn the proceedings for such time as he may consider proper for the ends of justice; and in such cases the Sheriff shall have power to allow the party complained of to go at liberty on finding proper bail, to be fixed by him, to appear at any such adjourned diet of the proceedings.

When Proceedings for enforcing penalties may be raised.

XXVI. It shall be competent to raise such proceedings for enforcing any penalties incurred in contravention of this Act at any time during which the person against whom such proceedings are taken is in default; and the Sheriff by whom any penalty shall be found due, by virtue of this Act, shall award such penalty to the funds for the support of the poor of the parish or combination in which the offence shall have been committed, and shall order the same to be paid over to the Inspector of Poor or other officer of the Parochial Board for that purpose.

Board of Supervision to compel performance of acts and duties by Parochial Board.

XXVII. Wherever the Parochial Board of any parish or combination shall fail to do or perform any of the acts or duties hereby required of them, it shall be lawful to the Board of Supervision, without prejudice to any right competent to such Board of Supervision to compel performance thereof, to do or perform the same, and the acts or duties so done and performed by the Board of Supervision shall be as valid and effectual as if done or performed by the Parochial Board failing as aforesaid; and the Board of Supervision shall have the same powers for directing and enforcing the execution of this Act by Parochial Boards as they now or may hereafter have in relation to any matter concerning the administration of the laws for the relief of the poor.

Where no Parochial Board exists, heritors to act.

XXVIII. Wherever under the provisions of this Act the Parochial Board of a parish is required to do or perform any acts or duties, and no Parochial Board exists within such parish, the heritors, as defined in the seventeenth and eighteenth *Victoria*, chapter eighty, except as after provided, shall do or perform such act or duty in the same manner as is provided with respect to heritors in the like cases in the said recited Act, and in the eighteenth *Victoria*, chapter twenty-

nine: Provided always, that when any such parish, or portion thereof, is situate within the burgh, the Town Council shall have the same powers with reference to the execution of this Act, in so far as registration is concerned, as are conferred by the Acts in force for the Registration of Births, Marriages, and Deaths.

XXIX. Any dispute or difference which may arise in regard to the allocation of the expenses attendant upon the execution of this Act, ^{Disputes to be determined by Sheriff.} between parishes or otherwise, shall be determined by the Sheriff of the County in which such parishes are situate, or if in different counties, then by the Sheriff of the County in which the parish or portion of a parish so disputing possessed of the largest rental is situated, such rental being ascertained by the Valuation Roll in force at the time.

XXX. The following words and expressions in this Act shall have ^{Interpre-} the several meanings hereby assigned to them, unless there be some- ^{tation of} thing in the subject or context repugnant to such construction; (that ^{terms.} is to say,)

The expression "Registrar-General" shall mean the Registrar-General of Births, Deaths, and Marriages in *Scotland* for the time being, appointed and acting under the seventeenth and eighteenth *Victoria*, chapter eighty. The word "Sheriff" shall mean the Sheriff of the county in which he is Sheriff, and shall include Sheriff-Substitutes:

The expression "Board of Supervision" shall mean the Board of Supervision for the Relief of the Poor in *Scotland*:

The expression "Medical Practitioner" shall mean any person registered as a practitioner in medicine or surgery pursuant to the Act twenty-first and twenty-second *Victoria*, chapter ninety, and shall include the vaccinator:

The expression "Vaccinator" shall mean the medical practitioner appointed by any parish or combination to act as such in such parish or combination:

The expression "the District" shall mean and include the registration district at the time existing, erected under and in virtue of an Act passed in the seventeenth and eighteenth year of the reign of Her Majesty Queen *Victoria*, chapter eighty, intituled *An Act to provide for the better Registration of Births, Deaths, and Marriages in Scotland*, and of another Act passed in the eighteenth year of the reign of Her Majesty, chapter twenty-nine, intituled *An Act to make further provision for the Registration of Births and Marriages in Scotland*.

SCHEDULES referred to by this Act.

SCHEDULE (A).

I, the undersigned, hereby certify, That the
 child of aged of the Parish of
 in the County of has been successfully vaccinated
 by me.

Dated this day of 19 .
(Signed) A B,
Surgeon of the Parish or Combination
(or other medical practitioner, as
the case may be).

SCHEDULE (B).

I, the undersigned, hereby certify, That I am of opinion that
the child of of the Parish of
in the County of aged is
 not now in a fit and proper state to be successfully vaccinated, and
 I do hereby postpone the vaccination until the day of

Dated this day of 19 .
(Signed) A B,
Surgeon of the Parish or Combination
(or other medical practitioner, as
the case may be).

SCHEDULE (C).

I, the undersigned, hereby certify, That I am of opinion that
the child of of the Parish of
in the County of is insusceptible of
 the vaccine disease.

Dated this day of 19 .
(Signed) A B,
Surgeon of the Parish or Combination
of *(or other medical*
practitioner, as the case may be).

SCHEDULE (D).

To the parent or guardian of (*insert name of child whose birth is registered*).

Take notice, that this child must be vaccinated, under the provisions of and Victoria, chapter within months from the date of his (*or her*) birth, under the penalty of £ .

(Signed) *A B*, Registrar.

SCHEDULE (E).

Register of Postponed Vaccination for the District of in
the Parish of .

	Birth Register in which recorded.		Period to which Vaccination postponed.	Date of Certificate.	Signature of Registrar.
	Year.	No. of Entry.			
Mary Nixson .	1864	12	Postponed to 10th March, 1864.	12th January, 1864.	J. Smith, Registrar.
Thomas Dickson	1864	14	Postponed to 4th February, 1864.	4th January, 1864.	J. Smith, Registrar.

SCHEDULE (F).

Schedule of Particulars to be transmitted by Vaccinator to Registrar.

Name of Child.	Sex.	Parent's Name.	Parish of Birth of Child.	Nature of Certificate granted in each Case.	Date to which postponed.	Date of Certificate.
Smith .	Male .	James Smith	Dalkeith .	Successfully vaccinated.	—	4th Jan., 1864.
Jones .	Female	John Jones .	Dalkeith .	Postponed .	20th May, 1864.	5th Jan., 1864.
Irvine	Male .	John Irvine .	Dalkeith .	Insusceptible	—	6th Jan., 1864.

I, Vaccinator for the Parish of in the County of hereby certify that I have granted certificates under Vict. cap. containing the particulars specified in this Schedule, and of the dates respectively herein stated.

(Signed)

Vaccinator for the Parish

AN ACT TO ENCOURAGE REGULAR MARRIAGES IN SCOTLAND.

41 & 42 VICTORIA.

CHAPTER XLIII.

A.D. 1878.

An Act to encourage Regular Marriages in Scotland.—
[8th August, 1878.]

WHEREAS it is expedient, in order to encourage the celebration of regular marriages in that part of the United Kingdom called Scotland, that provision should be made for the celebration of such marriages after notice to Registrars :

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

Interpreta-
tion of
terms.

1. In this Act—

- (1.) "Registrar" means the Registrar of Births, Deaths, and Marriages for a parish or district under the Act of the seventeenth and eighteenth years of the reign of Her present Majesty, chapter eighty, intituled *An Act to provide for the better Registration of Births, Deaths, and Marriages in Scotland*, and the Acts amending the same :
- (2.) "Registrar-General" means the Registrar-General of Births, Deaths, and Marriages in Scotland appointed under the said Act of the seventeenth and eighteenth years of the reign of Her present Majesty, and the Acts amending the same :
- (3.) "Parish" and "District" have the meanings attached to them respectively in the said Act of the seventeenth and eighteenth years of the reign of Her present Majesty, and the Acts amending the same.

2. This Act may be cited for all purposes as the Marriage Notice (Scotland) Act, 1878. A.D. 1878.
3. This Act shall commence and come into operation on the First day of January One thousand eight hundred and seventy-nine, which date is herein-after referred to as the commencement of this Act. Short title.
Com-
mence-
ment of
Act.
4. From and after the commencement of this Act it shall be lawful for ministers, clergymen, or priests in Scotland to celebrate marriages herein after such publication of notice of an intention to marry as is herein-after prescribed, and upon production to such minister, clergyman, or priest, of a certificate or certificates of such publication as herein-after prescribed; and any marriage so celebrated shall be deemed to be a regular marriage as if it had been celebrated by such minister, clergyman, or priest after the proclamation of banns of marriage according to the mode now in use. Ministers,
&c., may
celebrate
marriages
on Regis-
trar's cer-
tificate.
5. Notwithstanding anything contained in this Act, the Society of Friends, commonly called Quakers, and the persons professing the Jewish religion, may contract and solemnise marriage according to the usages of the said society and of the said persons respectively, and every such marriage is hereby declared and confirmed as a regular marriage, provided that the parties to such marriage be both of the said Society or both persons professing the Jewish religion respectively; provided also, that notice to the Registrar of intention to marry shall have been given, and his certificate shall have issued in manner herein-after provided. Regarding
Quakers
and Jews.
6. From and after the commencement of this Act a Registrar's certificate of the publication of a notice of marriage in the manner provided for by this Act shall, for all purposes of law, save as herein-after provided, be of the same force and effect as a certificate granted by a Session-Clerk or other proper officer for granting the same of the proclamation of banns of marriage under the law in force before the commencement of this Act. Registrar's
certificate
to be equi-
valent to
certificate
of pro-
clamation
of banns.
7. In every case of persons residing in Scotland intending that a regular marriage shall be contracted between them in Scotland without the proclamation of banns, each of such persons shall, on or about the same date, give notice of the intended marriage to the Registrar of the parish or district in which he or she shall have resided for a period of not less than fifteen clear days previous to the giving of such notice, in the form as nearly as may be set forth in the Schedule A annexed to this Act; provided that when both of such persons reside within the same parish or district a single notice shall suffice. Notice of
intended
marriage
may be
given to
Registrars.
8. On the receipt of a notice of an intended marriage, along with the sum of one shilling and sixpence, the Registrar, being satisfied Duties of
Registrars
on receipt

A.D. 1878. that the notice is conformable to the requirements of this Act, shall forthwith enter the particulars set forth in the notice in "The Marriage Notice Book" herein-after mentioned, and shall on the same day post or put up in a conspicuous and accessible place on the door or outer wall of his office, a public notice of the intended marriage, in the form as nearly as may be set forth in the Schedule B annexed to this Act, and shall keep the same so posted or put up for seven consecutive days thereafter.

of a notice
of mar-
riage.

The marriage notice book shall be open at all reasonable times to any person desirous of inspecting the same upon payment of one shilling.

Registrar
to grant
certificate.

9. The Registrar, having complied with the requirements of this Act, shall, on the expiration of seven clear days after the receipt of the notice of an intended marriage, in the event of no objection to the marriage appearing on the face of such notice, or being stated to him as herein-after provided for, and upon payment of a fee of one shilling, grant to the person who gave the notice, or to any person authorised by the person who gave the notice, a certificate of the due publication thereof, hereafter in this Act referred to as the Registrar's certificate, as nearly as may be in one of the forms set forth in Schedule C annexed to this Act, and shall therein set forth whether any objection had been offered to such intended marriage.

Provisions
as to ob-
jections to
intended
marriages.

10. The Registrar shall disregard all objections to an intended marriage not appearing on the face of the notice, unless—

1. They shall be stated prior to the issuing of the certificate of publication :
2. They shall be stated in writing subscribed by the person taking the same :
3. The person taking the same shall appear personally to lodge the same with the Registrar, and shall in his presence make and subscribe a declaration as nearly as may be in the form set forth in Schedule D annexed to this Act, which the Registrar shall endorse on the written statement of objections.

And with regard to objections, timely and duly stated as above provided, the following provisions shall have effect ; that is to say,

- (a.) Where the objection is that the persons intending to contract marriage, or either of them, had not resided fifteen clear days within the parish or parishes or districts or district before giving notice ; or that such persons are wrongly named or described in the notice, or that either of them is so wrongly named or described ; or that the notice is otherwise inaccurate in any detail ; and generally where the objection

does not set forth a legal impediment to a marriage between such persons, but relates to some formality or statutory requirement merely, the registrar shall suspend the issuing of his certificate, and shall consider the objection, and make such inquiry thereanent as he shall see fit, and report thereon as soon as may be to the Sheriff or Sheriff-Substitute of the county in which his office is situated, who shall, on such report, direct the notice to be amended and a certificate to be granted thereon without republication thereof, if he shall see fit; or to be cancelled, if he shall see fit, in which case it shall be competent for the persons intending to contract marriage to give notice *de novo* of their intended marriage : A.D. 1878.

- (b.) Where the objection is that the persons intending to contract marriage are within the forbidden degrees of consanguinity or affinity, or are both or either of them already married, or are both or either of them not of a marriageable age, or are from any other legal incapacity disqualified to give such consent as is necessary for marriage; and generally where the objection sets forth any legal impediment to a marriage between them, the Registrar shall suspend the issuing of his certificate until there shall be produced to him a certified copy of a judgment of a competent Court of Law to the effect that the parties are not in respect of the said objection disqualified from contracting such marriage.

11. For the purposes of this Act a certificate from a Session-Clerk of the due publication of banns, and a Registrar's certificate granted under this Act, shall be of equal authority in authorising a minister, clergyman, or priest in Scotland to celebrate a regular marriage, and such marriage may be celebrated upon the production either of a certificate or certificates of due proclamation of banns, or of a Registrar's certificate or Registrars' certificates applicable to both parties, or a certificate of due proclamation of banns in the case of one of the parties, and of a Registrar's certificate in the case of the other: Provided always, that whenever a marriage shall not take place within three months of the date of such Registrar's certificate as aforesaid, such certificate shall be utterly void: And provided further, that no minister of the Church of Scotland shall be obliged to celebrate a marriage not preceded by due proclamation of banns. Certificates of proclamation of banns and of notice to Registrars to be of equal authority.

12. Any person otherwise entitled to celebrate a marriage who shall celebrate a marriage in Scotland with a religious ceremony without having produced or exhibited to him a certificate or Penalties for celebrating marriages

A.D. 1878.

without
certifi-
cates.

certificates of the due proclamation of banns or a Registrars' certificate or Registrars' certificates applicable to both parties, or a certificate of due proclamation of banns in the case of one of the parties and a Registrar's certificate in the case of the other, shall be guilty of an offence under this Act, and shall on conviction thereof be liable to a penalty not exceeding fifty pounds.

Offences under this section may be prosecuted before the Sheriff or Sheriff-Substitute under the provisions of the Summary Procedure Act, 1864, but only at the instance of the Procurator-Fiscal.

Issuing of a
certificate
otherwise
than in
terms of
this Act to
be an of-
fence.

13. A Registrar who shall wilfully grant a Registrar's certificate to any person, without complying with all the requirements of this Act in regard to the conditions on which and the time when the same may be granted, shall be guilty of an offence under this Act, and shall on conviction be liable to a fine not exceeding twenty-five pounds or to be imprisoned for a period not exceeding one month, and to be deprived of his office.

Offences under this section may be prosecuted before the Sheriff or Sheriff-Substitute under the provisions of the Summary Procedure Act, 1864, at the instance of the Procurator-Fiscal of the county.

False de-
clarations,
&c., under
this Act to
be punish-
ed as per-
jury.

14. Every person who shall wilfully make or sign any false declaration, or sign or give any false notice of an intended marriage, or who shall wilfully state any false objection to a marriage, or wilfully make any false declaration relative to an objection to a marriage under the provisions of this Act, shall be deemed in law to be guilty of the crime of perjury, and shall on conviction suffer the penalties attached by law to the crime of perjury.

Registrars
to be pro-
vided with
books, &c.

15. The Registrar-General shall on or before the commencement of this Act, and thereafter from time to time as may be necessary, furnish or cause to be furnished to every Registrar of a parish or district in Scotland,—(1) a book to be called "The Marriage Notice Book," prepared in such form as the Registrar-General, having regard to the form of notice prescribed by this Act, shall see fit; and (2) such a number as he shall think sufficient and necessary of forms of notice and of public notice of intended marriages, and of certificates and of all other forms necessary to be supplied to the Registrars for the purposes of this Act, printing on paper of such shape, size, and quality as the Registrar-General shall think most convenient for the purposes of this Act and the service of his department and the expenses of providing and printing the same shall be defrayed in the manner provided in the Act of the seventeenth and eighteenth years of Her present Majesty, chapter eighty, intituled "An Act to provide

for the better Registration of Births, Deaths, and Marriages in A.D. 1878. Scotland."

The Registrar-General may, with the approval of one of Her Majesty's Principal Secretaries of State, from time to time prescribe rules for the discharge of their duties by Registrars under this Act, and as to the hours during which they shall be bound to give attendance for the purposes of this Act, and a copy of all such rules shall be laid before both Houses of Parliament within six weeks after the same are approved of, or if Parliament be not then sitting, within one month of the beginning of the next session of Parliament.

16. Any person unable to write may duly subscribe any notice, declaration, or other writ under this Act, by adhibiting thereto a cross or other mark in the presence of the Registrar, or two witnesses, provided the Registrar or witnesses shall duly subscribe a declaration relative to such cross or mark as having been so adhibited by such person in their presence.

Persons unable to write may sign by a mark.

17. The Schedules to this Act, and all directions therein contained or specified, or thereto appended, shall be of the same force and effect as if the same were enacted in the body of this Act.

The Schedules to be part of the Act.

18. Nothing contained in any statute, law, or custom shall prevent the Church of Scotland as by law established from altering the existing regulations as to proclamation of banns of marriage, and in particular from shortening to any period not less than fifteen clear days the period of residence required in order to such proclamation.

As to alteration of regulations for proclamation of banns.

Sections 7, 17.

SCHEDULE A.

FORM No. 1 [*applicable to the case of notices by parties residing in different parishes or districts or giving separate notices*].

NOTICE OF MARRIAGE.—(*Pursuant to the Marriage Notice (Scotland) Act, 1878*).

To the Registrar of the parish (*or district*) of

in the county of

I [*here insert the name of the person giving notice*], give you notice that I and the other person herein named are about to contract marriage ; (that is to say),

Name and Surname.	Condition.*	Rank or Profession.	Age.	Dwelling-Place.	Parish [<i>or District</i>] and County in which parties respectively dwell.

And I solemnly declare that I believe there is no impediment of consanguinity or affinity or of age or other lawful hindrance to the said marriage, and that I have had my usual place of abode and residence for the space of fifteen days immediately preceding the date of this notice within the above-mentioned parish (*or district*) of

And this I declare, knowing that if the declaration is false I expose myself to the penalties of perjury. In witness whereof I have hereunto set and subscribed my hand, this 19 day of [Signature].

Subscribed and declared by the above-named in the presence of us, the undersigned householders in the above-mentioned parish (*or district*), who declare that we believe the statements contained in this notice to be true.

A B [*name and designation*], Witness.

C D [*name and designation*], Witness.

* State whether the person is a bachelor or spinster, widower or widow.

N.B.—The Schedule must set forth all the particulars indicated in regard—first, to the person giving the notice, and second, to the person with whom the person giving the notice intends to contract marriage.

NOTICE OF MARRIAGE.—(*Pursuant to the Marriage Notice (Scotland) Act, 1878.*)

To the Registrar of the parish (or district) of _____ in the county of _____
 We [*here insert the names of the persons giving notice*] give you notice that we the persons herein named are about to contract marriage; (that is to say),

Name and Surname.	Condition.*	Rank or Profession.	Age.	Dwelling-Place.	Parish (or District) and County in which parties respectively dwell.

And we solemnly declare that we believe there is no impediment of consanguinity or affinity or of age or other lawful hindrance to the said marriage, and that we have had our usual place of abode and residence for the space of fifteen days immediately preceding the date of this notice within the above-named parish (or district) of _____
 And this we declare, knowing that if the declaration is false we expose ourselves to the penalties of perjury. In witness whereof we have hereunto set and subscribed our hands, this _____ day of _____ 19 [*Signatures*].
 Subscribed and declared by the above-named in the presence of us the undersigned householders in the above-mentioned parish (or district), who declare that we believe the statements contained in this notice to be true.

A B [*name and designation*], Witness.
C D [*name and designation*], Witness.

* State whether the person is a bachelor or spinster, widower or widow.

A.D. 1878.

Sections
8, 17.

SCHEDULE B.

PUBLIC NOTICE.

(Pursuant to the Marriage Notice (Scotland) Act, 1878.)

NOTICE has this day been received at this office of marriage as intended to be contracted between the following persons; that is to say,

Between
I.

and

Between
II

*A B [here give name and surname, condition, rank, or profession, and place of residence of intending husband], and
C D [here give name and surname, condition, rank, or profession, and place of residence of intending wife].*

*E F [here insert same particulars as above], and
G H [here insert same particulars as above].**

All objections to certificates being granted authorising the celebration of these marriages, or any of them [*or of this marriage, when there is only one notice*], must be lodged with the Registrar in writing within seven days from this date by the objector, who must appear personally to declare to the truth thereof.

(Signed) *M N*, Registrar.

[*Date of Notice.*]

* One public notice in this form may be made to include all the notices of marriage received at the office in the same day.

Sections
9, 17.

SCHEDULE C.

REGISTRAR'S CERTIFICATE.

(Pursuant to the Marriage Notice (Scotland) Act, 1878.)

FORM No. 1 [*applicable to the case of the parties residing in different parishes or districts.*]

I [*M N*], Registrar of _____, hereby certify that on the
day of _____ 19____, *A B* [*here give name,*

surname, condition, rank, or profession, and place of residence of A. D. 1878.
A B], duly gave notice to me of his [*or her*] intended marriage to
C D [*give name, surname, condition, &c., of C D*], that all the
 requirements of law in respect of such notice, so far as the said *A B*
 is concerned, have been complied with, and no objections stated [*or*,
 written statement of objections lodged with me, *as the case may be*].

Certified by me, the said *M N*, this day of .

(Signed) *M N*, Registrar.

FORM No. 2 [*applicable to the case of the parties residing
 in the same parish or district.*]

I [*M N*], Registrar of , hereby certify that on the
 day of 19 , *A B* [*here give name, sur-
 name, condition, rank, or profession, and place of residence of A B*],
C D [*here give name, surname, condition, rank, or profession,
 and place of residence of C D*], duly gave notice to me of their
 intention to contract marriage with each other, and that all the
 requirements of law, in respect of such notices, have been complied
 with, and no objections stated [*or*, written objections lodged with me,
as the case may be].

Certified by me, the said *M N*, this day of .

(Signed) *M N*, Registrar.

SCHEDULE D.

Sections
10, 17.

I HEREBY solemnly declare that the facts as stated by me in the
 written statement of objections to the marriage intended between
A B and *C D*, on which this declaration is indorsed, are true to the
 best of my knowledge and belief, and I make this declaration know-
 ing that if the declaration is false I expose myself to the penalties of
 perjury.

(Signed by) *P Q*, Objector.

I certify that this declaration was made before me, and subscribed
 in my presence this day of 19 , in my
 office.

M N, Registrar.

H.

CHURCH OF SCOTLAND.

ACT ON PROCLAMATION OF BANNS.

At Edinburgh, the Twenty-eighth day of May, Eighteen hundred and eighty.

WHICH day the General Assembly of the Church of Scotland being met and constituted. *Inter alia*,—

The General Assembly called for the Report of the Committee on classing returns to overtures, when it appeared that the Overture and Interim Act, No. XXI., on Proclamation of Banns, had received the consent of the majority of the Presbyteries of the Church. It was moved, seconded, and agreed to—that the Overture and Interim Act be converted into a standing law of the Church.

That the Schedules to the said Act, prepared by the Agent in terms of instructions of last Assembly, be approved, printed, and circulated with the Act.

Further, the General Assembly recommended that in towns where there is more than one parish the various Kirk-Sessions should make arrangements for having one office in which all applications for proclamation of banns shall be lodged.

The following is the Act :—

The General Assembly, taking into consideration certain recent changes in the civil law of the country, calculated to effect the practice of proclamation of banns of marriage so long enjoined by this Church, and deeming it of importance that said practice should be facilitated and encouraged in time to come, resolved to ordain and enact with consent of Presbyteries, to the following effect, and at the same time to rescind or amend all previous Regulations of Assembly, and in particular those contained in the Acts of 1699, 1782, and 1784, so far as inconsistent with what is hereinafter proposed to be enacted :—

I. Residence in a parish for the space of fifteen clear days immediately preceding shall entitle persons purposing to marry, and to whose proposed marriage there is no impediment recognised by the laws of this Church, to have the banns of marriage proclaimed in the parish church, and without such conditions no proclamation of banns shall be allowed; subject to any exceptions which may be allowed in the case of soldiers and sailors, or where one of the parties has been resident forth of Scotland. In order to due proclamation of banns between persons residing in different parishes, proclamation shall be made in the churches of both parishes.

II. Applicants for proclamation of banns shall lodge their applications, along with the requisite particulars, with the Session-Clerk of the parish of their residence, who shall, but not without the leave of the minister, enter the names of the persons to be proclaimed, along with the particulars required by the Act of Assembly 1784, in a book to be kept by him for the purpose. This book shall be open to public inspection, and shall be laid before the Kirk-Session from time to time, and shall also be submitted once a year for examination and attestation to the Presbytery of the bounds, who shall see to the law of the Church on this subject being duly observed.

III. Proclamation of banns shall, in ordinary cases, be on two separate Sabbaths, and, wherever it can be conveniently done, shall be made from the pulpit or reading-desk by the minister, or his officiating substitute acting on his authority, at some time before the close of the service at the first diet of public worship. When this cannot be conveniently done, the proclamation shall be made in such manner as may be agreed upon by the Minister and Kirk-Session, but always in presence of the congregation.

IV. When, through unavoidable circumstances, there is no service in the church on any Sabbath, a proclamation by the Session-Clerk, at the church door, in presence of at least two witnesses, together with a written proclamation signed by the Session-Clerk, posted on the door of the parish church, prior to, or on the Sabbath or Sabbaths on which it is desired the proclamation should be made, shall be equivalent to proclamation from the pulpit or reading-desk in presence of the congregation.

V. It shall be in the power of the minister, but in no case obligatory upon him, to complete the proclamation of banns in a single Sabbath, in the case of persons who are well known to him, or in regard to whom he has reason to be satisfied, on the information of others, that there is no impediment recognised by the laws of this Church to the proposed marriage. In this case, the certificate shall

not be granted till forty-eight hours after proclamation has taken place, and it shall have the same effect as if proclamation had been made on two separate Sabbaths.

VI. While it shall be the duty of the ministers of this Church to celebrate marriages in their respective parishes on the production of a Session-Clerk's certificate, or Session-Clerks' certificates of the proclamation of banns having been made in proper form, within three months immediately preceding, they shall not be held bound, but shall at the same time be at liberty, if they see fit, to receive as a valid notice of marriage a Registrar's certificate granted under the Act of Parliament, entitled "Marriage Notice (Scotland) Act, 1878."

VII. The fee for proclamation of banns and certificate shall in no case exceed two shillings and sixpence.

*Extracted from the Records of the General Assembly of
the Church of Scotland, by*

JOHN TULLOCH, *Cl. Eccl. Scot.*

SCHEDULES.

I. *Application for Proclamation of Banns.*

(1.) APPLICATION BY PARTIES.

State full
Name and
Occupation, and
whether
Bachelor or
Widower.
State full
Name and
Occupation, if any,
and
whether
Spinster or
Widow.
To be
Signed by
the Party
or Parties
about to be
Married
resident in
the Parish
where the
Proclamation is
made.

There is a purpose of marriage between

residing at

in th

parish

and

residing at

in th

parish

Application for proclamation is made by

Date

Signature _____

(2.) CERTIFICATE OF HOUSEHOLDERS.

We, _____ Date _____
 residing at _____ householder,
 _____ and
 _____ householder, residing at _____
 do hereby certify that the parties above named are personally
 known to us, and that the said
 one of the said parties, has been resident in the parish of _____
 for the space of fifteen clear days imme-
 diately preceding the above date, and that we have good reason to
 believe them to be unmarried persons, and not related to each other
 within the forbidden degrees.

_____ Householder.

_____ Householder.

II. *Certificate to be endorsed on Form No. 1, and signed by the
 Minister of the Parish, when the Proclamation is to be made
 on one Sabbath.*

I, _____ minister of the parish
 of _____ hereby authorise the proclamation
 of the banns of the parties within named to be completed on one
 Sabbath, in terms of Act of Assembly, 1880.

Signature _____

III. *Certificate of Proclamation.*

At _____ the _____ day of _____ 19____
 it is hereby certified, That _____
 and _____ have been duly proclaimed
 in order to marriage, in the parish church of _____
 and that no objections have been offered.

_____ Session-Clerk.

IV. *Certificate of Marriage.*

At _____ the _____ day of _____ 19____
 The above parties were this day married by

_____ Minister.

CENSUS (GREAT BRITAIN) ACT, 1900.

63 VICTORIA.

CHAPTER 4.

A.D. 1900. *An Act for taking the Census for Great Britain in the year One thousand nine hundred and one.*—[27th March, 1900.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

Census to be taken in 1901. 1. A Census for Great Britain shall be taken in the year one thousand nine hundred and one, and the Census day shall be Sunday, the thirty-first day of March in that year.

Central authority for and expenses of Census. 2.—(1.) The Local Government Board shall superintend the taking of the Census.

(2.) The Registrar-General shall, subject to the approval of the Board, prepare and issue such forms and instructions as he deems necessary for the taking of the Census.

(3.) The expenses incurred, with the approval of the Treasury, for the purposes of the Census, shall be paid out of money provided by Parliament.

Enumeration districts and enumerators. 3.—(1.) For the purposes of the Census every Registration sub-district shall be divided into enumeration districts, and an enumerator shall be appointed for each enumeration district.

(2.) Overseers of the Poor and Relieving Officers for Poor Law Unions shall, if so required by the Local Government Board, act as and be enumerators for the purposes of this Act.

Preparation and filling up of Schedules. 4.—(1.) Schedules shall be prepared by or under the direction of the Local Government Board for the purpose of being filled up by or

A.D. 1900.

on behalf of the several occupiers of dwelling-houses, with the following particulars, and no others, namely, particulars showing—

- (a) The name, sex, age, profession or occupation, condition as to marriage, relation to head of family, birth-place, and (where the person was born abroad) nationality of every living person who abode in every house on the night of the Census; and
- (b) Whether any person who so abode was blind or deaf and dumb, or imbecile or lunatic; and
- (c) Where the occupier is in occupation of less than five rooms, the number of rooms occupied by him;
- (d) In the case of Wales or the County of Monmouth, whether any person who so abode (being of three years of age or upwards) speaks English only or Welsh only, or both English and Welsh.

(2.) Every enumerator shall in the course of the week ending on the Saturday next before the Census day leave at every dwelling-house within his enumeration district one or more of these Schedules for the occupier thereof or of any part thereof, and on every such Schedule shall be plainly expressed that it is to be filled up by the occupier for whom it is left, and that the enumerator will collect all such Schedules within his district on the Monday then next following.

(3.) Every occupier for whom any such Schedule has been so left shall fill up the Schedule, to the best of his knowledge and belief, so far as relates to all persons dwelling in the house, tenement, or apartment occupied by him, and shall sign his name thereto, and shall deliver the Schedule so filled up to the enumerator when required to do so.

(4.) In this section the expression “dwelling-house” shall include every building and tenement of which the whole or any part is used for the purpose of human habitation, and where a dwelling-house is let or sub-let in different tenements or apartments and occupied distinctly by different persons or families, a separate Schedule shall be left with or for and shall be filled up by the occupier of each such distinct tenement or apartment.

(5.) For the purposes of this section, a person who is travelling or at work on the night of the Census day, and who returns to a house on the morning of the following day, shall be treated as abiding in that house on the night of the Census day.

5.—(1.) Every enumerator shall visit every house in his district, and shall collect all the Schedules so left within his district, from

Collection,
correction,
and copy-
ing of
Schedules.

A.D. 1900. — house to house, and so far as may be possible on the day next following the Census day, and shall complete such of the Schedules as on delivery thereof to him appear to be defective, and correct such as he finds to be erroneous, and shall copy the Schedules, when completed and corrected, and shall furnish a return according to the best information which he is able to obtain, of all the persons present within his district on the night of the Census day, but not included in the Schedules collected by him.

(2.) Every enumerator shall also furnish the prescribed particulars as to whether or not houses are occupied or inhabited, and as to the counties, boroughs, parishes, and other areas for electoral or administrative purposes, and the ecclesiastical parishes or districts, in which the houses are situate.

Enumera-
tion in
public and
charitable
institu-
tions.

6. The governor, master, or chief resident officer of every prison, workhouse, hospital, or lunatic asylum, and of every public or charitable institution which may be determined upon by the Registrar-General, shall be the enumerator of the inmates thereof, and shall conform to such instructions as may be sent to him by the authority of the Local Government Board for obtaining the returns required by this Act, so far as may be practicable, with respect to the inmates.

Returns of
persons
travelling
or on ship-
board or
not in
houses.

7. The Registrar-General shall, subject to the approval of the Local Government Board, obtain returns of the particulars required by this Act with respect to persons who, during the night of the Census day, were travelling or on shipboard, or for any other reason were not abiding on that night in any house of which account is to be taken by the enumerators, and shall include these returns in the abstracts to be made under this Act.

Abstracts
of returns.

8.—(1.) The Registrar-General shall, subject to the approval of the Local Government Board, prepare a preliminary abstract and a detailed abstract of the Census returns.

(2.) The preliminary abstract shall be printed and laid before both Houses of Parliament within five months next after the Census day, if Parliament be then sitting, or if Parliament be not then sitting, then within the first fourteen days of the session then next ensuing.

(3.) The detailed abstract shall be printed and laid before both Houses of Parliament at as early a date as may be found practicable.

Power to
supply
further
abstracts
to local
authori-
ties.

9. The Registrar-General may, if he thinks fit, at the request and cost of the Council of any county, borough, or urban district, cause abstracts to be prepared containing statistical information with respect to the county, borough, or district, which can be derived from the Census returns but is not supplied by the Census report, and which, in his opinion, the Council may reasonably require.

10.—(1.) Instructions issued under this Act may prescribe, among other things— A.D. 1900.

- (a) the mode in which enumeration districts are to be formed and enumerators appointed; and
- (b) the duties of superintendent registrars, registrars, enumerators, and other persons employed under this Act; and
- (c) the mode in which the householders' schedules are to be copied and the persons to whom the schedules and copies are to be delivered; and
- (d) the persons by whom and the mode in which the copies are to be summarised, verified, examined, corrected, and otherwise dealt with; and
- (e) the allowances to be paid to persons employed under this Act; and
- (f) the mode in which and the persons by whom the amount of the allowances payable in respect of each registration district is to be certified, and the persons by whom and the mode in which the payments are to be made; and
- (g) anything authorised by this Act to be prescribed.

Matters to be prescribed by instructions.

(2.) The scale of allowances payable under this Act shall be subject to the approval of the Treasury.

11.—(1.) If any superintendent registrar, registrar, enumerator, or other person employed under this Act, makes wilful default in the performance of any of his duties under this Act, or makes any wilfully false declaration, he shall for each offence be liable on conviction under the Summary Jurisdiction Acts to a fine not exceeding Penalties for offences. five pounds.

(2.) If any occupier for whom a schedule is left under this Act—

- (a) wilfully refuses, or without lawful excuse neglects, to fill up the schedule to the best of his knowledge and belief, or to sign and deliver it as by this Act required; or
- (b) wilfully makes, signs, or delivers, or causes to be made, signed, or delivered, any false return of any matter specified in the schedule; or
- (c) refuses to answer, or wilfully gives a false answer to, any question necessary for obtaining the information required to be obtained under this Act;

shall for each offence be liable on conviction under the Summary Jurisdiction Acts to a fine not exceeding five pounds.

(3.) If any person employed in taking the Census communicates, without lawful authority, any information acquired in the course of his employment, he shall be guilty of a breach of official trust within

A.D. 1900. the meaning of the Official Secrets Act, 1889, and that Act shall apply accordingly.

52 & 53
Vict. c. 52.
Applica-
tion to
Scotland.

12. In the application of this Act to Scotland—

- (1.) "Secretary for Scotland" shall be substituted for "Local Government Board" and "Board"; "Registrar-General for Scotland" for "Registrar-General"; "registration district" for "registration sub-district"; "burgh" for "borough"; "poorhouse" for "workhouse"; and "police burgh" for "urban district":
- (2.) The expression "Council" shall include the Commissioners of a police burgh:
- (3.) The Schedules under this Act shall include particulars showing whether any person who abode in any house on the night of the Census day (being three years of age or upwards) speaks English only or Gaelic only, or both English and Gaelic:
- (4.) The particulars to be furnished by the enumerators shall show, with respect to each dwelling-house, the number of rooms, including a kitchen (if any) as a room, having a window, not being a window with a borrowed light:
- (5.) Sheriffs, Sheriff-Clerks, Chief Magistrates, Town-Clerks, Inspectors of Poor and Assistant Inspectors of Poor, shall perform such duties as may be prescribed, including, if so prescribed, such duties as were imposed on them by the Census (Scotland) Act, 1890.

53 & 54
Vict. c. 38.

Extent of
Act and
short title.

13.—(1.) This Act shall not extend to Ireland.

(2.) This Act may be cited as the Census (Great Britain) Act, 1900.

MARRIAGE WITH FOREIGNERS ACT, 1906.

6 EDWARD VII.,

CHAPTER 40.

An Act to amend the Law with respect to Marriages between British Subjects and Foreigners.—[29th November, 1906.] A.D. 1906.

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1.—(1) Any British subject who desires to be married in a foreign country to a foreigner according to the law of that country may, if it is desired for the purpose of complying with the requirement of the law of that country to obtain the certificate hereinafter mentioned, give notice of the marriage, if resident in the United Kingdom, to the registrar, and if resident abroad, to the marriage officer, and apply to the registrar or officer for a certificate that after proper notices have been given no legal impediment to the marriage has been shown to the registrar or officer to exist, and the registrar or officer shall, after the conditions set out in the Schedule to this Act have been complied with, give the certificate applied for unless the certificate is forbidden or a caveat is in operation as provided in that Schedule, or some legal impediment to the marriage is shown to the registrar or officer to exist.

Marriages
of British
subjects
with
foreigners
abroad.

(2) If a person—

(a) knowingly and wilfully make a false oath or signs a false notice of marriage for the purpose of a certificate under this section; or

(b) forbids the granting of a certificate under this section by falsely representing himself to be a person who is authorised to forbid the certificate, knowing that representation to be false,

A.D. 1906. — that person shall be guilty of perjury, and if the offence is committed abroad, may be tried in any county or place in the United Kingdom in which the offender may be, and dealt with in the same manner in all respects as if the offence had been committed in that county or place.

(3) If any person enters a caveat on grounds which the registrar or officer or, in case of appeal, the Registrar-General declares to be frivolous, that person shall be liable to pay as a debt to the applicant for the certificate such sum as the registrar or officer or, in the case of appeal, the Registrar-General considers to be proper compensation for the damage caused to the applicant by the entering of the caveat.

(4) Such fees may be charged in respect of any notice of an intended marriage, or any application for or grant of a certificate, or the entering of a caveat under this section, as may be fixed, as respects certificates to be granted by or caveats entered with registrars, by the Registrar-General, with the consent of His Majesty in Council, and, as respects certificates to be granted by or caveats entered with a marriage officer, as may be fixed by Order under the

54 & 55
Vict. c. 36.

Marriage of
foreigners
with
British
subjects in
the United
Kingdom.

Consular Salaries and Fees Act, 1891.

2.—(1) Where arrangements have been made to the satisfaction of His Majesty with any foreign country for the issue by the proper officers of that country, in the case of persons subject to the marriage law of that country proposing to marry British subjects in the United Kingdom, of certificates that after proper notices have been given no impediment according to the law of that country has been shown to exist to the marriage, His Majesty may, by Order in Council, make regulations—

(a) requiring any person, subject to the marriage law of that foreign country, who is to be married to a British subject in the United Kingdom, to give notice of the fact that he is subject to the marriage law of that country to the person by or in the presence of whom the marriage is to be solemnised ; and

(b) forbidding any person to whom such a notice is given to solemnise the marriage or to allow it to be solemnised until such a certificate as aforesaid is produced to him.

(2) If any person knowingly acts in contravention of, or fails to comply with, any such regulation, he shall be guilty of a misdemeanour, and shall be liable to a fine not exceeding one hundred pounds, or to imprisonment for a term not exceeding one year.

(3) Nothing in this section shall be taken to relate or have any reference to any marriages between two persons professing the Jewish religion solemnised according to the usages of the Jews in the presence of the secretary of a synagogue authorised by either the Births and Deaths Registration Act, 1836, or the Marriages (Ireland) Act, 1844, or by the Marriage and Registration Act, 1856, to register such a marriage, or of a deputy appointed by such secretary by writing under his hand, and approved by the president for the time of the London committee of deputies of the British Jews by writing under his hand.

A.D. 1906.
—
6 & 7 Will.
4. c. 86.
7 & 8 Vict.
c. 81.
19 & 20
Vict.
c. 119.

3. His Majesty may by Order in Council make general regulations prescribing the forms to be used under this Act and making such other provisions as seem necessary or expedient for the purposes of this Act, and may by Order in Council revoke, alter, or add to any Order in Council made under this Act.

Power to
make
general
regula-
tions.

4. In this Act, unless the context otherwise requires,—

Interpreta-
tion.

The expressions “Registrar-General” and “registrar” mean respectively the Registrar-General within the meaning of the Births and Deaths Registration Act, 1836, and a superintendent registrar of marriages within the meaning of the Marriage Act, 1836; and

The expression “marriage officer” means a marriage officer for the time being under the Foreign Marriage Act, 1892, and includes any person for the time being empowered to register a marriage under section eighteen of that Act.

55 & 56
Vict.
c. 23.

5. In the application of this Act to Scotland—

Applica-
tion to
Scotland.

(1) References to the forbidding of a certificate shall not apply;

(2) A reference to a caveat shall be construed as a reference to an objection, and the provisions respecting the entry of a caveat on frivolous grounds shall not apply;

(3) The expressions “Registrar-General” and “registrar” mean respectively the Registrar-General of births, deaths, and marriages in Scotland, and the registrar of births, deaths, and marriages for a parish or district under the Registration of Births, Deaths, and Marriages (Scotland) Act, 1854, and the Acts amending that Act;

17 & 18
Vict.
c. 80.

A.D. 1906.

- (4) Paragraph (a) of subsection one of section two shall be read as if the following words were inserted after the word "solemnised," namely, "or to any registrar, law agent, or other person whom he desires to draw up any declaration of irregular marriage between him and a British subject"; and paragraph (b) of the same subsection shall be read as if the following words were inserted after the word "solemnised," namely, "or to aid in effecting the said irregular marriage";
- (5) The duly appointed minister of a synagogue shall be substituted in subsection (3) of section two for the secretary of the synagogue or deputy as described in that subsection.

Applica-
tion to
Ireland.

6. In the application of this Act to Ireland the expressions "Registrar-General" and "registrar" mean respectively the Registrar-General and registrar within the meaning of the Marriages (Ireland) Act, 1844.

Short
title.

7. This Act may be cited as the Marriage with Foreigners Act, 1906.

SCHEDULE.

PART I.

PROVISIONS APPLICABLE EXCEPT IN SCOTLAND.

A.—*Conditions.*

1. The applicant shall sign a notice stating the name, surname, profession, condition, nationality, and residence of each of the parties to the marriage, and whether each of the parties is or is not a minor.

2. The applicant shall at the time of giving the notice make and subscribe in a book to be kept by the registrar or officer for the purpose, an oath—

(a) that the applicant believes that there is no impediment to the marriage by reason of kindred or alliance, or otherwise ;
and

(b) that the applicant has for three weeks immediately preceding

had his usual residence within the district of the registrar or officer; and A.D. 1906.

(c) if the applicant, not being a widower or widow, is under the age of twenty-one years, that the consent of the persons whose consent to the marriage is required by law has been obtained thereto, or that there is no person having authority to give that consent, as the case may be.

3. The registrar or officer shall file every such notice and keep it with the archives of his office, and shall forthwith enter in a book of notices to be kept by him for the purpose, and post up in some conspicuous place in his office a copy of every such notice, and shall keep it so posted up for at least twenty-one days.

4. The book in which the notice is entered, and the copy posted up, shall be open at all reasonable times without fee to the inspection of any person.

B.—Provisions as to forbidding Certificate, and as to Caveats.

5. Any person whose consent is required by law to marriages solemnised in England may forbid the certificate by writing the word “forbidden” opposite to the entry of the application in the book of notices, and by subscribing thereto his name and residence and the character by reason of which he is authorised to forbid the certificate.

6.—(a) Any person may enter with the registrar or officer a caveat against the granting of the certificate, signed by him or in his behalf and stating his residence and the grounds of his objection.

(b) The registrar or officer shall examine into the matter of the caveat and decide whether it ought to obstruct the giving of the certificate or not, but he may if he thinks fit refer the matter to the Registrar-General to decide. If the registrar or officer decides the question himself, and decides that the caveat ought to obstruct the granting of the certificate, the applicant for the certificate may appeal to the Registrar-General in manner provided by regulations made under this Act.

(c) The caveat shall cease to operate—

(i) if withdrawn by the persons entering it; or

(ii) if it is decided by the registrar or officer or by the Registrar-General on appeal that it ought not to obstruct the giving of the certificate.

A.D. 1906.

PART II.

PROVISIONS APPLICABLE IN SCOTLAND.

A.—*Conditions.*

41 & 42
Vict. c. 43. 1. The applicant shall give a notice to the registrar of the parish or district in which he shall have resided for a period of not less than fifteen clear days previous to the giving thereof. Such notice shall be in the form as nearly as may be set forth in Schedule A. to the Marriage Notice (Scotland) Act, 1878, but shall state, in addition to the particulars therein set out, the nationality of the parties to the intended marriage.

2. On the receipt of a notice of an intended marriage the registrar, being satisfied that the notice is conformable to the requirements of this Act, shall forthwith enter the particulars set forth in the notice in the Marriage Notice Book kept in terms of the Marriage Notice (Scotland) Act, 1878, and shall on the same day post or put up in a conspicuous and accessible place on the door or outer wall of his office a public notice of the intended marriage, in the form as nearly as may be set forth in the Schedule B. annexed to the said last-mentioned Act, but stating, in addition to the particulars therein set out, the nationality of the parties to the intended marriage, and shall keep the same so posted or put up for seven consecutive days thereafter.

B.—*Provisions as to Objections.*

3.—(a) Any person may enter with the registrar an objection against the granting of the certificate signed by him or on his behalf, and stating his residence and the grounds of his objection.

(b) The registrar shall refer any objection to the Registrar-General, who shall decide whether it ought to obstruct the granting of the certificate or not, and shall instruct the registrar accordingly, and the instructions so given shall be carried out by the registrar.

(c) The objection shall cease to operate—

(i) if withdrawn by the person entering it ; or

(ii) if it is decided by the Registrar-General that it ought not to obstruct the granting of the certificate.

NOTES CONCERNING THE MARRIAGE WITH
FOREIGNERS ACT, 1906.

By the Order in Council entitled "Foreign Marriages Order in Council, 1892" (following upon the Foreign Marriage Act, 1892, 55 & 56 Vict. c. 23) it is ordered, under section 5 of the heading *Embassy and Consular Marriages*, as follows:—

"5. In the case of any Marriage under the Foreign Marriage Act, if it appears to the marriage officer that the woman about to be married is a British subject, and that the man is an alien, he must be satisfied that the marriage will be recognised by the law of the foreign country to which the alien belongs."

This principle of attempting to prevent risks being incurred in marrying a foreigner, without a Certificate that the marriage will be valid in the country to which he (or she) belongs, received statutory embodiment for the United Kingdom in the foregoing Marriage with Foreigners Act, 1906, 6 Edw. 7, c. 40.

That enactment deals not only with foreigners, but also with persons subject to the Marriage Law of a Foreign State, as, for example, a British subject domiciled in Denmark, where (as in Great Britain) status and capacity are governed, not by nationality, but by domicile.

Such is not the case in some other countries—*e.g.*, Italy, where the capacity of an alien to contract marriage is determined by the law of the country to which he belongs.

By section 102 of the Italian Code (Levi's "International Law," page 255)—

An alien wishing to contract marriage in the kingdom must present to the officer of the Civil State a declaration from a competent authority in the country to which he belongs, showing that there is nothing contrary to such marriage in the laws by which he is governed.

In the Registrar's offices throughout Scotland there are notices in regard to, for instance, French Marriage Law (*vide*, pp. 61 & 62, *supra*), and apparently no case is reported of injustice having been done through ignorance of the requirements of the Law of that country in regard to a Marriage in Scotland. But England has afforded more than one well-known instance of hardship to women owing to evasion of the requirements of French Law.

Indeed, so many cases of complication have arisen from mixed marriages in England, that the Lord Bishop of London published, in 1901, instructions on the subject of Marriages between British subjects and Foreigners. The text of his Lordship's Order of October, 1901, warns British subjects against entering into such marriages without careful attention to all the formalities. The Order is as follows:—

“Marriages in England of foreigners, or of foreigners with British subjects, are, if performed in accordance with the requirements of English law, valid throughout the British Empire. But marriages in England of, or with, foreigners will not be necessarily valid in the countries to which they belong, unless the legal requirements of those countries are complied with.

“The Bishop is informed that every year cases arise in which Englishmen, who have been married to foreigners in this country without complying with the Marriage Law of the country to which the foreigners belong, have been deserted or repudiated.

“The Secretary of State for Foreign Affairs has made international arrangements with the Governments of France and Belgium, under which the Consul of France and the Belgian Minister, respectively, are required, on application, to ascertain, in the case of a party to an intended marriage being of French or Belgian nationality, if the legal requirements of their country have been complied with, and to furnish a Certificate to that effect. . . .

“The Bishop, therefore, directs that where a foreigner, being of French or Belgian nationality, whose permanent residence is in England, is a party to a marriage by banns, with an English subject, in the Diocese of London, the clergyman of the parish shall require, *before* the solemnisation of the marriage, the production of a Certificate from the Consul of the country to which the foreigner belongs, that all the legal requirements necessary to the validity of the marriage in that country have been complied with.

“The Bishop further directs that where *both parties* to a marriage in the Diocese of London are foreigners, or where one of the parties is a foreigner belonging to any other country except that of France or Belgium, or is a foreigner *without a permanent residence in England*, the marriage shall be by licence, which will not be granted unless the Chancellor of London is satisfied that there has been compliance with the law of the foreign country to which either belongs.”

CERTIFICATE ISSUED BY FRENCH CONSULS IN THE
UNITED KINGDOM.

A Form of Certificate of Compliance with the requirements of French Law was published by the Home Office in the *London Gazette*, 27th June, 1905. This Form had been settled between the British and French Governments; and a similar arrangement was made in regard to the marriage of Belgian subjects. The Home Office recommended the use of such a Certificate, explaining its importance in the following preliminary note:—

Having regard to the requirements by which French laws have to be met in order to constitute a marriage binding on a French citizen, whether the marriage is celebrated in France or abroad, it is most important, in the interest of both parties, that marriages with French citizens should not be contracted in England without the production of a certificate in this form, which has been agreed upon between His Majesty's Government and the Government of the French Republic.

Form of Certificate referred to (translated):—

I, A. B., Consul for the French Republic, at C., certify that from legal documents produced to me it appears—

(1.) That M. (*profession or occupation*), born at (*place*), on the (*date*), residing at (*address*), who proposes to contract marriage with N. (*profession*), born at (*place*), on the (*date*), residing at (*address*), is of French nationality.

(2) That he has fulfilled the requirements of French law as to the publication of the notices necessary for his marriage.

(3) That no opposition having been offered, and all the necessary formalities having been carried out, there is not to my knowledge any legal obstacle to the intended marriage, and that the parties to the intended marriage would be allowed to contract marriage in France.

And I further certify that, pursuant to the terms of the Art. 47 and 170 of the Civil Code, a marriage contracted in a foreign country between two persons of French Nationality, or between a person of French Nationality and a person of another Nationality, is valid if celebrated with the formalities customary in the country where such marriage takes place, provided that the notifications and publication prescribed by French law have preceded such marriage, and that the

contracting party of French Nationality has not infringed the provisions of Art. 144 to 164 of the Civil Code.

In testimony of which I have issued this Certificate to have all due legal effect and validity.

Given at _____ on the _____ 190 .

Consul for the French Republic.

The following is the Certificate in French :—

FORMULE POUR MARIAGE ENTRE FRANÇAIS ET ANGLAIS

Nous Consul de France à
déclarons qu'il résulte des pièces qui nous ont été produites :

1. Que M
(profession) _____ ; né à
le _____ demeurant à
qui se propose de contracter mariage avec
(profession) _____ ; né à
le _____ , demeurant à
est Français ;

2. Qu'il a été procédé aux publications à fin de mariage exigées par la loi française ;

3. Qu' aucune opposition ne s'étant produite et toutes les formalités ayant été accomplies, il n'existe à notre connaissance aucun empêchement légal à l'union projetée et que les futurs époux seraient admis à contracter mariage en France.

Déclarons, en outre, qu'aux termes des articles 47 et 170 du Code Civil le mariage contracté en pays étranger entre Français, et entre Français et étrangers, est valable s'il a été célébré dans les formes usitées dans le pays, pourvu qu'il ait été précédé des publications prescrites et que Français n'ait point contrevenu aux dispositions inscrites dans les articles 144 à 164.

En foi de quoi nous avons délivré la présente déclaration pour servir et valoir ce que de droit.

À _____ le _____ 190
Le Consul de France.

Necessity for such Certificate.—The law of many foreign countries requires compliance with material pre-requisites, in order to secure that a marriage shall be valid. Requirements as to age,

capacity, consent of parents, and notices must be observed. Prohibited degrees, of course, must be considered.

It appears to be the same whether the marriage is between their own nationals or a national and a native of, say, the United Kingdom.

In Belgium, as in Italy, notice of marriage proposed to be celebrated, in Scotland for example, between a Belgian subject and a Scottish, must be made in Belgium (*vide* p. 62, *supra*).

If the Dutch subject is domiciled in Holland, or had a domicile there within six months of the intended marriage, similar notice is necessary in Holland.

Domicile has been defined as the place (or country), which either in fact is, or by a rule of law is determined to be, the permanent home of an individual, and by Continental nations is, generally, regulated by nationality.

FRANCE.—If the consents required, and the notices necessary under s. 60, have been observed, a marriage contracted by a Frenchman abroad will be valid under s. 170 of the Code Civile.

Where his family had not retained their domicile in France, and the French citizen had never resided in France, the Courts have held lack of notice to be immaterial (Clunet, 1895, page 616). And also where the omission of the necessary intimations in France were found not to have been made intentionally, *in fraudem legis* (*Ib.*, 1900, p. 592). *Contra*, where one party had intentionally omitted the *acte respectueux*, in a case of marriage between two French citizens of full age; as also to make the required public notice, and the registration of the marriage within three months of the return to France.

The *acte respectueux* is the formal request for consent of parents, and is required even although the French parties have reached full age (formerly 25 for males, 21 for females).*

A Frenchman cannot marry legally before the age of 21, unless he has obtained the consent of his parents, expressed in a document signed before a notary.

Even when he is over 21, he must, if his parents refuse their consent, apply for it in a form similar to a summons; and not until one month after this application is he free to marry.

Notice of the Marriage must be published—

(1.) At the French Consulate nearest to his residence :

* The French Senate passed, in May, 1907, a measure of Marriage Law Reform, altering the age at which sons could marry without consent of parents to 21, which is the age of majority in France for both sexes.

(2.) At the Mairie of the town in France in which he was last domiciled:

(3.) If he is under 21, also in the town where his parents are domiciled.

If the notices are not made, the marriage may be annulled on the petition of any person interested.

And if a Frenchman should marry in the United Kingdom without fulfilling the requirements of French law regarding parental consent, the parents, or he himself, may bring an action before a French civil court, and the marriage may be declared null and void.

The case of *Ogden v. Ogden*, otherwise *Philip*, 10th December, 1906 (22 T.L.R. 158), illustrates the need for the enactment concerning which these Notes are made; and the case was one of action for annulment of marriage. [1907, P. 107.]

A Frenchman (19), resident temporarily in England, married in 1898 an Englishwoman in a Registrar's Office. She alleged that the Registrar did not draw her attention to the requirements of French Marriage Law. The man left her, returning to France, where, in 1901, he had the marriage declared null and void, on the ground that the necessary preliminaries had been omitted in France; and he married again, in France.

The woman raised in 1903 an action against him in England for divorce on the grounds of desertion, bigamy, and adultery; but this action was dismissed for want of jurisdiction, the petitioner being held to be the wife of a domiciled Frenchman.

Some remarks made by the President (Sir Francis Jenne, afterwards Lord St. Helier) were interpreted to indicate that she was free to marry again, in consequence of the French decree of nullity; and her solicitors advised her that she was at liberty to marry. Accordingly, she married in 1904 a Mr. Ogden in Manchester, who afterwards brought the action of annulment, on the ground that she was legally married to the Frenchman, who was still alive.

She pled in defence—

(1.) That her marriage with the Frenchman was invalid.

(2.) That it had been dissolved by decree of a competent French Court, which, as a foreign judgment on status, was entitled to receive effect in England.

Bargreave Deane, J., said that her application to the English Courts in 1903 should have been not for divorce but for nullity of marriage; but as he himself upheld expressly the validity of the first marriage, it is not apparent how an application for nullity would have helped her out of her very hard case. For Bargreave Deane, J., granted decree

of nullity to Mr. Ogden, holding the case covered by certain decisions (especially that of the full Court in *Simonin v. Mallac*, 1860, 2 S. & T. 67, and that of Hannen, J., in the re-trial of *Sottomayor v. de Barros*, 1879, 5 P.D. 94).

No more glaring instance is known of the risks run in marrying a foreigner without having procured a certificate that the marriage is valid in the foreign country to which he belongs. As her husband was domiciled in France, she could not obtain a divorce for want of jurisdiction; nor could she obtain a divorce in France, for in that country she was not his wife, the basis of the decree of nullity there being, apparently, that they were both aware of their disability to contract a valid marriage, he being then under age and not obtaining the consent of his parents, nor having notices published in France.

She remains thus, nominally, the Frenchman's wife, and cannot re-marry. Is there not, however, a different view suggested in these words:—"Where the parties are not prohibited from marrying each other by the *lex loci actus*, but are prohibited by the law of their domicile, the marriage is invalid?" Professor Dicey in the "Conflict of Laws" (page 626), considers the point still open. Prohibitions by the *lex domicilii* of a penal character, or such as are contrary to the settled policy of our law, will not prevent a marriage celebrated in Scotland from being recognised there as valid (Dicey, page 628).

The Ogden case is a striking example of the conflict of laws. Professor Dicey in his work on that subject points out that the decision is illogical that lack of consents required by foreign law is to be regarded in this country as part of the solemnities of marriage, and to be judged by the *lex loci contractus*.

"A person who cannot marry without the consent of another is *pro tanto* under an incapacity, and on the principle that capacity depends on the *lex domicilii*" (supported by Lord Halsbury in *Cooper*, 1888, 13 App. Cas. 88), "the want of such consent ought to invalidate a marriage wherever it takes place." And it is a principle general in its application, that no marriage is valid anywhere which is not valid in the country in which it is entered into.

These considerations suggest that if the Ogden case is taken further, it should lend itself to very subtle dissertations upon nice points of international law. Meantime, one may observe that the decree granted by Bargreave Deane, J., is supported by the rule that—"Failure to obtain consents does not invalidate"—and the fact that the sufficiency of the ceremony is in England determined by the *lex loci contractus*.

The case is one of the most remarkable in recent times. It illustrates the unsatisfactory state of international law in a very effective fashion. Therefore, it is appropriate to give fuller treatment thereto ; which, accordingly, will be done,—after a brief prefatory reference to a couple of cases cited in connection therewith. Of these the first is *Simonin v. Mallac*, 1860, 2 Sw. & Tr. 67.

Two French people, knowing they could not get the consent of their parents to marry, came over and got married in England.

The husband left the wife, and, apparently, got a decree of nullity in France. In order to be quite sure of her position, the wife brought a suit in England for nullity, on the ground that, the marriage having been celebrated in England, the Court of Divorce there was the proper Court to deal with it.

The Full Court of Divorce decided that where there was a marriage celebrated in this country, the *lex loci contractus* was the proper law, that the Court in whose jurisdiction the marriage was entered into was the proper court to decide upon the validity of that contract, and that the question of the consent of parents had nothing whatever to do with the contract, such consent being only a sort of provisional necessary precedent which the English law does not recognise.

The full Court decided, accordingly, that it was a perfectly good marriage, took no notice of the French decree, and refused to grant a decree of nullity of marriage.

Sottomayor v. de Barros, 1879, 5 P.D. 94, was followed in the *Ogden* case, and was also quoted from very largely.

This was the case of two Portuguese subjects. They were first cousins, and Roman Catholics. First cousins are forbidden to marry by Portuguese law, unless they receive dispensation. To get over this obstacle, they came to England ; and, after being there some time, they were married.

That case was discussed three times. First, it came before Sir Robert Phillimore as an undefended case ; at his request the Queen's Proctor intervened for the purpose of arguing the case on the other side ; and in the result Sir Robert decided that the marriage was good.

It was accepted that they were both domiciled Portuguese subjects. Referring to the decision in *Simonin v. Mallac*, *supra*, Sir Robert Phillimore said the marriage was not affected by the Portuguese disqualification of cousinship, first cousins being allowed to marry by English law, and that, being an English marriage, it was a good marriage by English law.

The Court of Appeal, however, reversed this decision ; holding

that, both being Portuguese subjects, they carried with them the disqualification of their own country which constituted an absolute incapacity to marry, and therefore they could not marry in this country, so that their marriage was bad.

The following is a passage from the judgment of the Lords Justices :—"It only remains to consider the case of *Simonin v. Mallac*. The objection to the validity of the marriage in that case, which was solemnized in England, was the want of the consent of parents required by the law of France, but not under the circumstances by that of this country. In our opinion, this consent must be considered a part of the ceremony of marriage, and not a matter affecting the personal capacity of the parties to contract marriage ; and the decision in *Simonin v. Mallac* does not, we think, govern the present case."

Thus the decision of the Court of Appeal was based upon the opinion that mere want of consent of parents to marry was a matter in connection with the ceremony ; whereas the Portuguese disqualification to marry was inherent in the parties, affecting the more important matter of the capacity to marry.

When, however, the facts were fully gone into in the retrial of the case before Sir James Hannen (1879, 5 P.D. 94), it was found that the husband was English by domicil, as he was a minor, and his father had acquired a domicil in England.

The opinion of the Court of Appeal was confined to the case where *both* the contracting parties were at the time of their marriage domiciled in a country, the laws of which prohibited their marriage, and, therefore, was not applicable to a mixed marriage. "It was pressed upon us" (said their judgment) "in argument that a decision in favour of the petitioner would lead to many difficulties, if questions should arise as to the validity of a marriage between an English subject and a foreigner, in consequence of prohibitions imposed by the domicil of the latter."

Sir James Hannen found that the marriage was good, one of the parties to it being a domiciled Englishman ; and that, the marriage having been celebrated in England, the law of England prevailed over that of the foreign country.

The Law of England does not appear quite logical. As laid down by Sir James Hannen, it holds, in effect, that the marriage of a foreigner in England is, as regards capacity as well as ceremony, regulated by the *lex loci*, whereas the *lex domicilii* determines the validity of the marriage of a domiciled Englishman abroad.

In its international aspect the question, however, as to the law

by which capacity to contract marriage is to be determined is a difficult one. In regard to the capacity of Foreign Minors, it is observed—"There is no Scottish authority to the effect that minority, and the degree of incapacity resulting therefrom, is to be determined by the *lex loci actus* more modern than certain dicta in old cases decided at a time when the law as to status in general had been much less considered than at present. In none of these cases was the actual point determined, and it is thought that the rule that capacity must depend on the *lex domicilii* would now, within certain limitations, be accepted in Scotland." (Walton, "Husband and Wife," p. 364.)

Marriages of Scottish subjects with Foreigners have been carried through carefully in Scotland. The present writer has knowledge of such cases—even of marriage with, for example, a Russian, who, after a certificate obtained from his domicile (Archangel), was married in Dundee according to the forms of the Established Church of Scotland; the marriage being also solemnised five days later (23rd January 1905), at the Russo-Greek Church, London, by the Chaplain to the Russian Embassy.

Large schemes for international marriage law reform are in the air. The co-operation of the countries of Europe, the Colonies, and the United States would be necessary for any such alteration. No case has done so much to arouse public attention to problems of international marriage as that of Mrs. Philip, whose husband, according to the decision reported here, does not cease to be her husband in England, although he obtained a decree of nullity in France, and is there validly married to another woman. French law is rigid: English law is possibly not free from a little inconsistency; and a result of these two laws coming into conflict is revealed in the *Ogden* case.

OGDEN v. OGDEN (OTHERWISE *PHILIP*), [1907, P. 107].

The rubric of this case runs as follows :—

Nullity of Marriage—Bigamy—Different Domicile of Parties to former Marriage—Foreign Decree of Nullity on Ground unknown to English Law—Conflict of Laws—Lex loci contractus.

Restrictions upon and prohibitions against marriage are adjudicated upon according to the *lex loci contractus*. No nation is entitled to call upon another nation, within whose territory a marriage has been celebrated, to surrender its own laws, in order that effect

may be given to a foreign decree annulling such marriage, and based upon restrictions and prohibitions unknown to the *lex loci contractus*.

In the case of a marriage celebrated in England between an Englishwoman domiciled in England and a man domiciled in a country where, in the circumstances, the marriage would be invalid, the proper test of validity is the law of England, at any rate for the purpose of determining in England the status of the parties to the marriage.

A ceremony of marriage according to English form was celebrated in England between a domiciled Englishwoman and a domiciled Frenchman. The marriage was annulled in France at the suit of the man or of his father, whose consent to the English marriage had not been obtained, and was necessary according to the law of the man's domicile.

At a later date, the woman married a domiciled Englishman in England:—*Held*, that this later marriage was bigamous, and must be annulled at the suit of the man who was a party to it.

Sottomayor v. De Barros (1879), 5 P.D. 94, followed.

In the following condensed report some relative facts regarding French Marriage Law have been added to render the narrative readily intelligible:—An Englishwoman named Williams was married in the office of the registrar, on 14th September, 1898, at Prestwich (in England), to Leon Philip, a Frenchman both by birth and by domicile, but temporarily living in Great Britain to acquire a knowledge of our language and commerce. The union took place without the knowledge of her father or of his father. She averred that the Registrar did not draw her attention to the requirements of French Marriage Law.

When a French subject marries, no matter in what part of the world, he or she is bound to follow the law of France as to certain requirements of the French law. By section 170 of the French Civil Code—

Marriage contracted in a foreign country [that is, any other country than France] between French and between French and foreigners shall be valid if celebrated according to the usual forms of that foreign country, provided that it was preceded by the publications prescribed in Article 63, and provided that the French person had done nothing in contravention of the provisions contained in the preceding chapter. The preceding chapter (i.) referred to provides that the man must be 18 and the woman 15 years of age, and that the consent of parents must be obtained.

The son who has not attained full age for marriage, formerly 25 years, now 21, and the daughter who has not attained the age of 21, cannot contract marriage without the consent of their father and mother; in case of disagreement, the consent of the father is sufficient. (Article 148 of the Civil Code.)

As a matter of fact Leon Philip in 1898 was aged only 19, although his age was stated in the marriage entry as 22, and Miss Williams was 25. They lived together for about three months. Then the marriage became known to her father, who at once communicated with Leon Philip's father in France, who came to this country and took his son back to France. A child was born, but the father did not return to England.

"Within three months after returning to France the marriage celebrated in a foreign country must be registered" in terms of the French Civil Code. But, on the other hand, if the requirements of French law have not been complied with, the marriage, on the French person returning to France may be pronounced void within a period of one year of such return; and, accordingly, the father of Leon Philip instituted proceedings in the French Courts for a decree of nullity, on the ground that the son was under age and that the preliminaries as to consent and publication in France had been evaded. The French Court declared the marriage null, but, on the wife's application, granted a maintenance for the child; and the father married again, in France. The lady *née* Williams never went to France.

Assuming that the French decree of nullity was operative, the wife, on 29th October, 1904, married a Mr. Ogden, to whom she described herself as a widow; although she alleged that she told him the whole circumstances of her previous matrimonial adventure, but he disputed that assertion. She had a child to Mr. Ogden, who, however, having found out the facts, brought a suit to have it declared that his marriage was bad, on the ground that she is still, according to English law, the lawful wife of Leon Philip.

The lady wished to maintain that her marriage with Monsieur Philip was null and void, so that her marriage to Mr. Ogden would be good; and cases were cited to the effect that, by law, her marriage with Philip was bad; also that cognisance was bound to be taken of the French decree of nullity, some of the words of the President on 5th July, 1904, in the divorce action she raised against Philip, lending considerable colour to the latter contention. (*Vide supra*, pp. 409 and 410.)

Mr. Ogden's petition was for nullity on the ground of bigamy,

denying the jurisdiction of the French Court to annul the first marriage, and that the validity of the decree had been pronounced for in the English Court (Probate Division), on 5th July, 1904.

For the lady, it was pressed that the case of *Simonin v. Mallac*, the foundation of the argument against her, is a case no longer an authority in view of the trend of modern decisions. By marrying Philip she acquired a French domicile, and the Court should recognise the effect upon her status of the decision of the Court of that domicile, although given on grounds which would not apply in England (*Bater v. Bater*, 1906, p. 209); and the Court cannot go behind the decision of the French Court (*Pemberton v. Hughes*, 1899, 1 Ch. 781). The case for the lady was thus, that the question was one of *status*, and must be decided by the law of the domicile of the parties to the contract.

[Reference was made to the action she had brought against Philip for divorce by filing a petition on 21st July, 1903.

Give me a decree of divorce on the ground of desertion and adultery, or make an order that the French decree is a valid and effective decree, was, briefly, the purport of proceedings which were begun in July, 1903, in the English Probate Division.

But the President (the late Sir Francis Jeune) declined to make an order in support of that prayer on either point. Sir Francis said, with regard to the question of divorce:—

“You are here appearing in the capacity of the lawful wife of a Frenchman. If you are his lawful wife, his domicile, which is undoubtedly in France, is your domicile, because the wife acquires the domicile of her husband on marriage; and, therefore, if you appear here as his wife, you must have a French domicile, because you are the wife of a Frenchman—therefore I cannot give you a divorce. On the other question, I am not asked to give any decree of nullity of marriage, but you only ask me to say that the French decree is operative.” He continued:—“I am not going to make any such order. If a French decree is a good decree according to French law, it is *prima facie* a good decree; and I assume that the French Court was justified, in accordance with its own procedure and its own laws, in making that decree, and I am not going to disturb that decree; but you do not ask me to deal with it upon the point of English law; therefore, I make no order.”

The wife's petition was dismissed on the ground of want of jurisdiction—that is, on the question of divorce, as thus indicated—both the parties being domiciled French people, and the English Court

therefore having no jurisdiction to dissolve the marriage (5th July, 1904).]

The case for the petitioner (Mr. Ogden), was that the law of the place where the contract was made should prevail: that the consent by the parents of Philip was merely a part of the ceremony, and that regard will not be had to the opinion of a foreign court on an English marriage ceremony; also, that in none of the matrimonial cases relied upon by the other side was the validity of the marriage disputed, those cases showing only that the Court recognised the authority of a foreign tribunal to dissolve an English marriage for some cause which has accrued since the marriage, when also the domicile of the parties has been changed since the marriage.

Bargreave Deane, J., held (10th December, 1906,) that the marriage with Leon Philip was a marriage in this country between a domiciled Englishwoman and a domiciled Frenchman; that the English law must prevail, and by the English law this was a valid marriage. Therefore, the lady is still by English law the wife of Philip. Consequently, she was not capable of contracting marriage with Mr. Ogden, and therefore his marriage must be declared null and void on the ground that the respondent had a husband (Leon Philip) living at the time of her marriage with him.

"The result (the judge added) is brought about entirely by her own act. Behind the back of everybody who could advise her, and without her father's knowledge or consent, she contracted marriage with a Frenchman without asking any question; and further than that, I think it was through her own mistake subsequently that she finds herself in that position. If, instead of bringing a suit before Sir Francis Jeune for divorce, in which she accepted the marriage as valid, she had brought a suit for nullity, she probably would have succeeded in having her position defined; for although she would not have succeeded in getting a decree of nullity, she would have succeeded in getting a decree in this Court that she was lawfully married to Leon Philip. I cannot make any order as to the wife's costs, as I think that she, by her own act, caused the trouble which has arisen."

By rendering it *compulsory* on a foreigner marrying in the United Kingdom to obtain a certificate that the formalities necessary to render the intended marriage valid in the foreign country have been carried through, the Marriage with Foreigners Act affords protection to British subjects marrying subjects of a foreign state, and should tend to prevent the occurrence of cases of irreparable wrong, such as that above reported. The *Ogden* case, however, would not perhaps have happened had the Registrar done his duty. And it is owing to

the efficiency of the Registrars of our large towns and other places where foreigners are found, that marriages with foreigners have been contracted satisfactorily in Scotland, generally with Consular advice and assistance. (*Vide* page 61, *supra*.)

PROVISIONS OF ACT, 6 EDWARD VII., CH. 40.

This measure provides, as already indicated, the power to remedy defects in marriage law arrangements affecting British subjects contracting marriage with foreigners—

- (1.) In foreign countries ;
- (2.) In the United Kingdom.

The Act is, in a certain aspect, retaliation, most foreign countries requiring a certificate previous to marriage between their nationals and those of other States.

Such certificate that no obstacle is known to exist rendering the marriage invalid according to the law of that country is required in the German Empire (*Bürgerliches Gesetzbuch*, section 1315), and in Italy (*Codice Civile*, section 103), and, though not indispensable, such a certificate is recommended to be produced in France (*Circular*, Minister of Justice, 16th Feb., 1855).

But until the passing of this Act (as we have seen) there were no *statutory* means provided for procuring a similar certificate in our own country.

Such Certificate will be accepted abroad to satisfy the requirements of foreign law,—the preliminaries to marriage being regulated generally by the law of domicile.

“The procedure is, in Scotland, as nearly as may be that of the Marriage Notice (Scotland) Act, 1878. That Statute, 41 & 42 Vict. c. 43, does not allow of publication of marriage where one of the parties to an intended marriage is resident furth of Scotland, under the interpretation put on section 7 which provides that the Act applies to exclusively “the case of *persons* residing in Scotland.” (See page 41.)

The case of a contemplated mixed marriage is thus exempted apparently from the limitation applying hitherto at least when one of the parties to an intended marriage resided anywhere out of Scotland ; Foreign Countries being now placed, in a way, at an advantage over England and Ireland. Possibly, however, the limitation referred to may be removed, as the interpretation of the *plural* has caused occasionally considerable inconvenience.

MARRIAGES CONTRACTED IN THE UNITED KINGDOM

Are dealt with in Section 2, which provides means for requiring the Foreigner to produce a proper Certificate that the marriage to be contracted shall be valid in his country.

[This ensures compliance with the requirements as to consents, notices, and the like required by the law of the foreign country to which he belongs.

As pointed out in the preceding pages, the formal validity of the contract is left generally to the *lex loci contractus*.]

The effect of this section is to make *compulsory* the production of such Certificate in the case of mixed marriages contracted in the United Kingdom, where the foreign countries concerned have agreed and arranged satisfactorily to issue the desired certificates to their subjects.

The section deals with *persons subject to the marriage law of a foreign state*. This covers not only persons of other than British nationality, but also (as already indicated) the case of persons (British subjects) domiciled, say, in Denmark, where, as in Great Britain, status and capacity are held to be governed by the law of domicile,—and not of the nationality.

With the additions in section 5 (4), section 2 covers also Irregular Marriages in Scotland by declaration.

By section 2 (1) the Crown is empowered to make regulations by Order in Council :—

(a) Making it *compulsory* on a foreigner to give notice that he is subject to the law of a foreign State to the person by or before whom the marriage is to be celebrated ; or in Scotland, “to any registrar, law agent, or other person whom he desires to draw up any declaration of irregular marriage between him and a British subject” . . . “or to aid in effecting the said irregular marriage.”

(b) Forbidding such person to proceed with the marriage until the Certificate is produced that, after proper notices have been given, no impediment according to the law of the foreign country has been shown to exist to the marriage.

Penalty—fine not exceeding £100, or imprisonment not exceeding one year. *Jews* are exempted by section 2 (3), if their marriages are celebrated according to the usages of the Jews, and according to existing statutes.

(Questions may arise as to the marriage law to which a person is subject, but such questions, it may be assumed, will be rare in Scotland. Such cases may be possibly those of foreign persons residing

for a lengthened period in this country, or British subjects domiciled in, say, Denmark; and in certain circumstances may involve consideration of questions regarding the effects of naturalisation in the British Empire.)

PROVISIONS APPLICABLE TO SCOTLAND :—

A.—*Conditions*.—Prior residence, and publication of notice are as prescribed by the Marriage Notice (Scotland) Act, 1878, with addition of *nationality*. (*Vide* page 404, *supra*.)

B.—*Objections*.—Any person may enter with the Registrar an objection against the granting of the Certificate. Such objection shall be referred for decision to The Registrar-General.

The carrying into effect of the provisions of the Act (particularly those of the second Section) comes into practice with the Order in Council specifying the foreign countries to the nationals of which the application of the Statute shall be compulsory: and probably from time to time new countries will be included among those with which the necessary arrangements have been satisfactorily made.

In connection with International Marriage, it has been, indeed, observed that there is no subject in relation to which the establishment of a common code for all civilised nations is more urgently required. ("Ency. Brit." XV., p. 568.)

The foregoing notes may serve to show something of the purpose of the Statute as a remedial measure: nothing tends more to the understanding of an Act than a knowledge of the circumstances rendering legislation advisable. The principle of the enactment is, however, by no means novel. By sec. 19 of the Foreign Marriages Act of 1892, power to refuse solemnization of marriage where marriage is inconsistent with international law or the comity of nations, was given to the marriage officer in cases of marriage of British subjects *outside* the United Kingdom. The Statute under consideration formally extends that safeguard to marriages with foreigners contracted *within* the United Kingdom: and the relative Order in Council prescribing the forms to be used, and making such other provisions as seem necessary or expedient for the purposes of this Act, is required to give practical guidance, on lines partly resembling in effect those of the Order in Council as to Foreign Marriages (1892), quoted at the commencement of these inexhaustive notes on a difficult subject which, in possibility, is literally wide as the world.

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